

**SESSION LAWS**  
OF  
**HAWAII**  
PASSED BY THE  
**FIRST STATE LEGISLATURE**

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**REGULAR SESSION**  
**1961**

Convened on Wednesday, February 15  
and  
Adjourned Sine Die on Saturday, June 3

Published by Authority of the  
Revisor of Statutes  
Honolulu, Hawaii

## AUTHORITY

**Section 4, Act 191, Session Laws of Hawaii 1959, provides as follows:**

**Section 4. Publishing of session laws.** As soon as possible after the close of each session of the legislature, the revisor shall prepare for publication all laws duly enacted at such session, arranged, first the bills and then joint resolutions, in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

## **C E R T I F I C A T E**

I, Hidehiko Uyenoyama, Revisor of Statutes of the State of Hawaii, certify that the Acts of the First Legislature of the State of Hawaii passed at its Regular Session of 1961 set forth herein have been compared with the enrolled copies thereof deposited in the office of the Lieutenant Governor of Hawaii and that they appear to be correctly printed.

HIDEHIKO UYENOYAMA

Revisor of Statutes

Honolulu, Hawaii  
August 23, 1961

**STATE OF HAWAII**  
**ELECTED OFFICIALS AND LEGISLATIVE OFFICERS**

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**UNITED STATES CONGRESS**

**Senate:**

Hiram L. Fong  
Oren E. Long

**House of Representatives:**

Daniel K. Inouye

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**STATE EXECUTIVE OFFICERS**

Governor of Hawaii.....William F. Quinn  
Lieutenant Governor.....James K. Kealoha

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**OFFICERS AND MEMBERS OF THE  
FIRST STATE LEGISLATURE**

**REGULAR SESSION 1961**

**SENATE**

President.....William H. Hill  
Vice-President.....Hebden Porteus  
Clerk.....Walter G. Chuck

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**First District—(Hawaii)**

Kazuhisa Abe (D)  
Nelson K. Doi (D)  
William H. Hill (R)  
Richard J. Lyman, Jr. (R)  
John T. Ushijima (D)

**Second District—(Hawaii)**

Bernard G. Kinney (R)  
Julian R. Yates, Sr. (R)

**Third District—(Maui)**

Marquis F. Calmes (R)  
George Fukuoka (D)  
Thomas S. Ogata (D)  
Bernard H. Tokunaga (R)  
Nadao Yoshinaga (D)

**Fourth District—(Oahu)**

Randolph Crossley (R)  
O. Vincent Esposito (D)  
Yasutaka Fukushima (R)  
Hebden Porteus (R)  
J. Ward Russell (R)

**Fifth District—(Oahu)**

George R. Ariyoshi (D)  
Lawrence Kunihiisa (R)  
Calvin C. McGregor (R)  
Sakae Takahashi (D)  
Steere G. Noda (D)

**Sixth District—(Kauai)**

Matsuki Arashiro (D)  
Francis M. F. Ching (R)  
Noboru Miyake (R)

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# HOUSE OF REPRESENTATIVES

Speaker.....	Elmer F. Cravalho
Vice-Speaker.....	Manuel S. Henriques
Clerk.....	Herman T. F. Lum

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<p>First District—(Hawaii)            Jack K. Suwa (D)</p> <p>Second District—(Hawaii)            Joseph R. Garcia, Jr. (R)            Stanley I. Hara (D)            Toshio Serizawa (D)</p> <p>Third District—(Hawaii)            Yoshito Takamine (D)</p> <p>Fourth District—(Hawaii)            Takeshi Kudo (D)</p> <p>Fifth District—(Hawaii)            Akoni Pule (D)</p> <p>Sixth District (Lanai, Molokai)            Pedro Dela Cruz (D)</p> <p>Seventh District—(Maui)            Elmer F. Cravalho (D)            John E. Milligan (R)            David K. Trask, Jr. (D)            Mamoru Yamasaki (D)</p> <p>Eighth District—(Oahu)            Joseph L. Dwight, Jr. (R)            Albert W. Evensen (R)            Hiram K. Kamaka (D)            Richard M. Kennedy (R)</p> <p>Ninth District—(Oahu)            John C. Lanham (D)            Robert C. Oshiro (D)</p> <p>Tenth District—(Oahu)            William Bains-Jordan (R)            Donald D. H. Ching (D)            Larry N. Kuriyama (D)            George M. Okano (D)</p>	<p>Eleventh District—(Oahu)            William M. Furtado (D)            Akira Sakima (D)            James H. Wakatsuki (D)</p> <p>Twelfth District—(Oahu)            Frank W. C. Loo (D)            Peter S. Iha (D)            Robert E. Teruya (R)</p> <p>Thirteenth District—(Oahu)            Sakae Amano (D)            Robert W. B. Chang (D)</p> <p>Fourteenth District—(Oahu)            Robert K. Fukuda (R)            David C. McClung (D)            Howard Y. Miyake (D)            Wadsworth Yee (R)</p> <p>Fifteenth District—(Oahu)            Dorothy Devereux (R)            Eureka Forbes (R)            Thomas P. Gill ((D)            Katsugo Miho (R)            Percy K. Mirikitani (R)            James Y. Shigemura (D)</p> <p>Sixteenth District—(Oahu)            Tadao Beppu (D)            Walter M. Heen (D)            Hiroshi Kato (D)            George Koga (D)</p> <p>Seventeenth District—(Oahu)            Webley Edwards (R)            Frank C. Judd (R)            Fred W. Rohlfing (R)            Ambrose J. Rosehill (R)</p> <p>Eighteenth District—(Kauai)            William Fernandes (D)            Manuel S. Henriques (D)            Abel Medeiros (R)</p>
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**Session Laws of Hawaii**  
**Passed by the**  
**First State Legislature**  
**Regular Session**  
**1961**

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**ACT 1**

A Bill for an Act Appropriating Money for the Expenses of the General Session of 1961 of the First State Legislature of the State of Hawaii and for Expenses of the State Senate Incurred Before the General Session of 1961, for the Payment of Allowances for Personal Expenses of the Members of the Legislature, for the Expenses of any Holdover Committee or Committees of the Legislature for the Period Herein Specified, and Removing Any Limitations Imposed by Section 5-16 of the Revised Laws of Hawaii 1955, as Amended, or Any Other General Statute.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated from the general funds of the State the sum of \$550,000, or so much thereof as may be necessary, to defray the expenses of the Senate of the General Session of 1961, First State Legislature of the State of Hawaii, up to and including February 20, 1962.

SECTION 2. There is hereby appropriated from the general funds of the State the sum of \$45,000, or so much thereof as may be necessary, to the State Senate to defray its pre-session expenses incurred by the Senate before the General Session of 1961.

SECTION 3. There is hereby appropriated from the general funds of the State the sum of \$790,000, or so much thereof as may be necessary, to defray the expenses of the House of Representatives of the General Session of 1961, First State Legislature of the State of Hawaii, up to and including February 20, 1962.

SECTION 4. Any unencumbered balance of the appropriations provided for in sections 1 and 3 remaining at the close of the General Session of 1961 is hereby appropriated to defray the expenses of any holdover or interim committee or committees established by either the Senate or the House of Representatives, respectively.

SECTION 5. Before February 21, 1962, the comptroller of the State shall audit the accounts of the Senate for pre-session expenses incurred before the General Session of 1961 and the accounts of the Senate and House of Representatives of the General Session of 1961 of the First State Legislature of the State of Hawaii. Upon the completion of the audit, a full report shall be presented to the Senate and to the House of Representatives of the Legislature convening on February 21, 1962.

SECTION 6. The expenses of any member of the Legislature, while trav-



## ACT 2

eling abroad on official business of the Legislature, shall not be limited by the provisions of section 5-16 of the Revised Laws of Hawaii 1955, as amended, or by any other general statute. The expenses of such member shall be the sum allowed by the Senate or by the House of Representatives, respectively.

SECTION 7. Each section of this Act is hereby declared to be severable from the remainder of this Act.

SECTION 8. This Act shall take effect upon its approval.

(Approved March 8, 1961.) **H.B. 42.**

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## ACT 2

An Act Repealing Section 40-9(d), Revised Laws of Hawaii 1955, Relating to Compulsory School Attendance.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 40-9(d) of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 27, 1961.) **S.B. 113.**

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## ACT 3

An Act Amending Section 97-26, Revised Laws of Hawaii 1955, as Amended, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The fourth and fifth paragraphs of subsection (a) of Section 97-26, Revised Laws of Hawaii 1955, as amended, are hereby amended to read:

"Second finger. For the loss of a second finger, commonly called the middle finger, thirty weeks;

"Third finger. For the loss of a third finger, commonly called the ring finger, twenty-five weeks;"

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1961.) **S.B. 119.**

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## ACT 4

An Act Amending Subsection (c) of Section 93-65, Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection (c) of Section 93-65, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the word "ten" appearing in the first sentence of said subsection and substituting therefor the word "five".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1961.) **S.B. 121.**

### ACT 5

An Act Amending Chapter 97, Revised Laws of Hawaii 1955, as Amended, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 97-23, Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the figure "750" appearing in the first paragraph of said section and substituting therefor the figure "1,000".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1961.) **S.B. 130.**

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### ACT 6

An Act Providing for the Development of Lands for Residential Uses and Other Related Facilities and for the Purchase or Condemnation of Private Property in Connection Therewith on the Island of Oahu; and Providing for the Financing Thereof.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Findings and declaration of necessity.** The Legislature hereby finds and declares that: (a) there exists a critical shortage of residential fee simple property on the island of Oahu; (b) this shortage has created an artificial scarcity and resulting high prices making it extremely difficult or impossible for persons of moderate means to own their own homes; (c) a large and expanding population in a growing economy will further aggravate the already existing shortage; (d) a prime goal of land policy in the United States has been to promote the public welfare through the greatest possible attainment of individual home ownership; (e) the high percentage of private land held by relatively few owners coupled with the inability or unwillingness of some of these large owners, because of trust indentures or tax problems, to sell or adequately develop their lands is a strong contributing factor in creating this critical shortage and the accompanying artificial price inflation; (f) available and suitable public lands on Oahu are insufficient to adequately relieve the existing shortage of residential lands either in fee or in lease; (g) where the goal of home ownership is not immediately attainable for people of moderate means, leasing or leasing with an option to purchase house lots can provide an interim method of meeting a portion of the housing need; (h) it is therefore necessary that the government acquire through its power of eminent domain sufficient lands to develop to meet the present need and establish a well-balanced community where fee ownership is a right, and in which limited land areas may be put to their highest and best use; and (i) it is hereby declared as a matter of legislative determination that acquisition and development of land hereunder is declared to be a public use and purpose.

SECTION 2. **Definitions.** Unless a different meaning clearly appears from the context, as used in this Act:

1. "Board" means the board of land and natural resources as provided in chapter 14A of the Revised Laws.

2. "State," "governor," "secretary," "government" and "federal government" shall have the respective meanings set forth in section 74-2 of the Revised Laws.

3. "Political subdivision" means a county.
4. "Revised Laws" means the Revised Laws of Hawaii 1955, as amended.
5. "Development project" means a specific unit for development within a designated area for which a program of acquisition and development is established.
6. "Development area" means an area so designated pursuant to section 6.
7. "Lands" means either undeveloped lands or land together with improvements and appurtenances and includes real property as defined in section 74-4 of the Revised Laws of Hawaii 1955. All lands owned by the state or any political subdivision or the Federal Government are "government lands". All other lands are "private lands".
8. "Residence lot" means a lot not exceeding one half acre in size, obtained by subdivision of lands acquired pursuant to this Act and used for one or two family residential use only, except as may otherwise be provided herein.
9. "Residential use" or "residential purpose" means the devotion of a residence lot to use for one or two family dwelling purposes only.
10. "Bonds" means any bonds, notes, interim certificates, debentures or other obligations.
11. "Obligee" means any bondholder, agents or trustees for any bondholders, or lessor demising to the board property used in conjunction with a development project, or any assignee of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with the board.

**SECTION 3. Administration of Act.** The Board of land and natural resources is charged with the administration of this Act.

**SECTION 4. Interested members, officers or employees.** No member of the board or officer or employee administering the provisions of this Act shall acquire any interest, direct or indirect, in any development project or in any property included or planned to be included in any development project other than by gift, devise or inheritance, nor shall he have or acquire any interest, direct or indirect, in the financing of any development project or in any contract or proposed contract for materials or services to be furnished or used in connection with or relating to any development project. If any such member, officer or employee has or acquires an interest, by gift, devise or inheritance, direct or indirect, in any development project or in any property included or planned to be included in any development project, he shall immediately disclose the same in writing to the board and such disclosure shall be entered upon the minutes of the board and he shall dispose of such interest within six months of such acquisition or initiation or project, which shall last occur. Such member, officer or employee shall not participate in any action by the board relating to the property, project or contract in which he has or acquires any such interest. Violation of any of the foregoing provisions of this section shall constitute, in case of such member or officer, misconduct in office or, in case of an employee, cause for dismissal.

**SECTION 5. General powers.** The board shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, without limitation, the following powers in addition to others herein granted:

- (a) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the board;

(b) To make, amend or repeal any rule or regulation, having the force and effect of law, in accordance with the provisions of chapter 7 of the Revised Laws;

(c) To prepare, carry out and operate development projects in any development area; and to provide for the construction, reconstruction, improvement, alteration or repair of any development project or any part thereof;

(d) To provide for the regulation of development projects financed by private funds and instituted under the terms of this Act;

(e) To sell, to lease or to lease with option to purchase lands; and

(f) In addition to all of the other powers conferred upon it, to do all things necessary and convenient to carry out the powers expressly given by this Act.

**SECTION 6. Declaration of development areas.** Whenever the board, after due notice and public hearing, the time and place of which have been duly advertised in a newspaper of general circulation in the city and county of Honolulu on at least three different days, the last publication being not less than five days before the date of hearing, finds:

(a) That in any locality on the island of Oahu an acute shortage of residential property exists;

(b) That such shortage is attributable in whole or to a major degree to a scarcity of land available for purchase for residential use or to exorbitant prices or unreasonable terms and conditions demanded for or imposed upon land in such locality;

(c) That residence lots, or dwellings and lots, in a proposed development area under this Act, can be made available, whether for sale or for lease, at a total cost to the purchasers or lessees at least 15 per cent below the going market prices of comparable properties determined in accordance with generally accepted appraisal principles; and

(d) That the shortage of housing and land cannot practicably be alleviated within the reasonably near future by means other than those provided under this Act; the board may declare a suitable area, not less than 25 contiguous acres in extent and reasonably regular in shape, as a development area. The development area shall be reasonably accessible to persons in the locality and shall consist of lands available for a development project. Any such finding of fact, if supported by substantial evidence, shall be conclusive in any suit, action or proceeding.

In declaring a development area on the basis of residential need, the board shall find that there are sufficient persons, registered with the board, who are unable, because of high prices or unavailability, to purchase land in the area, but who would be willing, able, and apparently qualifying under section 10 of this Act, to purchase such land in a development project if it were made available.

All development areas shall be compatible with any general plan for the long range development of land in the political subdivision concerned under the terms of chapter 98F of the Revised Laws, and shall conform to and with all subdivision and zoning ordinances and requirements of the political subdivision.

**SECTION 7. Acquisition of land within a development area.** After the declaration of a development area, the board may acquire a parcel or parcels of land which it shall thereafter designate for the appropriate development project or projects within such area. In the event that necessary lands cannot reasonably be acquired by voluntary transaction, the board may institute eminent domain proceedings to acquire such lands and improvements; provided, that

negotiations for such acquisition by voluntary transaction shall not be required before the institution of eminent domain proceedings. The board shall, within 12 months next following its designation, acquire or institute eminent domain proceedings to acquire the lands so designated; if the lands are not acquired or eminent domain proceedings instituted within the 12 month period, it shall reimburse the owner of the lands so designated for out-of-pocket expenses of appraisal, survey and attorney fees as the owner may have incurred as a result of the designation.

Subject to the restrictions in the following section, the board may acquire for development projects any lands suitable for residential use, or suitable for such use or uses upon subdivision and development. The board may also acquire, in connection with such development projects, lands necessary for roads, sidewalks, parks, schools, utilities, and playground and recreational facilities, and rights to water and access. The board may also acquire, in connection with such development projects, lands for business use where such use is reasonably necessary to provide services to the prospective occupants of the projects. Plans and specifications for projects shall include provisions for roads, sidewalks, parks, schools, utilities, playground and recreational facilities, and other appropriate improvements, so that they will be suitable for disposition as hereinafter provided.

**SECTION 8. Property which shall not be acquired for development projects.** In declaring development areas, and acquiring land therein, the board shall avoid disturbing existing uses which are in accord with the highest use permitted under any existing zoning ordinance in the political subdivision concerned.

The board shall not acquire for development projects: (1) lands already developed and improved as business or industrial areas where use of such lands for residential purposes or as a part of a development project would be economically unsound or where an undue hardship would be suffered by the community through loss of service because of such acquisition; (2) lands already in use for residential purposes by the owner thereof or by a lessee holding a lease with an original term of 20 years or more, except where the acquisition of parts of such lands is reasonably necessary for the proper development of a project, but in no case shall any part of such lands be taken where the taking will reduce the parcel to less than three acres in extent; (3) lands in the process of subdivision and development where the owner or his agent has prepared subdivision and construction plans, arranged for financing, and applied to government agencies and otherwise as may be appropriate for the construction of the proposed development and is diligently prosecuting such development in good faith and has filed an affidavit with the board to that effect; (4) lands used or to be used as sites for churches, private or parochial schools, clubs, meeting houses, or other private uses of a community, civic, social or religious nature; provided, that portions of the lands mentioned under (1), (2), (3) and (4) of this section, or interests therein, may be taken to provide access and utility easements where no other reasonable means of access or utility easements are available; (5) any private lands if there are available state lands comparable in size and topography and otherwise suitable for residential development, in, adjacent to, or reasonably near the development area, and such state lands are not prohibited for comparable residential use under Act 234, Session Laws 1957, or where such state land is not under planned development for a use, or being put to a use of substantial benefit to the economy of the State.

In acquiring agricultural land for a development project, where such land though used for agricultural purposes is not being used in accord with the highest use permitted under any existing zoning ordinance, the board shall exercise all reasonable care not to jeopardize the agricultural enterprise concerned. If, however, the board finds that such land is necessary for a development project, it may provide assistance, monetary or otherwise, in relocating the enterprise elsewhere or pay such damages to the owner or operator of such enterprise as will reasonably compensate him for his loss, if he has not already been so compensated under a lease agreement, or both.

**SECTION 9. Development of lands acquired.** Where lands are acquired by the board with its own funds, it shall subdivide and develop such lands into residence lots or dwellings and lots in a manner best designed to carry out the purposes of this Act.

The board may contract with any private developer to provide for the financing of the acquisition of lands, the subdivision and development of acquired lands, and the disposition of residence lots or the construction of dwellings on such lots and the disposition of both. Such contracts may be entered into after published advertisement for sealed tenders, setting forth the terms of the proposed contract, including necessary plans, specifications and time schedules. The contract shall provide for the establishment of such sale prices of the residence lots or dwellings and lots as will repay to the developer the amount of the actual cost or expense incurred in the acquisition and development of the land, together with a developer's profit computed thereon, provided that such prices shall be at least 15 per cent below the going market prices of comparable properties determined in accordance with generally accepted appraisal principles. The contract shall also provide for the sale of residence lots or dwellings and lots only to persons entitled to purchase from the board, upon the terms and conditions provided in section 10 with respect to sales by the board. Every contract shall be made with the responsible bidder whose proposal complies with the requirements of the call for tenders and states the lowest rate of developer's profit, which shall in no case exceed 15 per cent. Publication of the call for tenders shall be made as required by section 9-25 of the Revised Laws, and the time for opening of such tenders shall be not less than thirty (30) days after the last publication.

**SECTION 10. Disposition of lands.**

(a) Generally. It shall be the policy of the board to encourage insofar as possible the widespread fee simple ownership of residential lots of modest size and price. Where necessary or desirable, the board may issue residential leases or leases with an option to purchase the fee in any development area upon such reasonable terms and conditions as may be determined by the board. Disposition of lands shall be by such public method as shall most likely carry out the purposes of this Act.

(b) Land disposed of by private developers. Land disposed of through private developers shall be sold in accord with the terms prescribed by the board. A reasonable developer's profit shall be allowed, but the board shall reserve the right to inspect books, records and construction, take necessary precautions against speculation by the private developer in lands acquired under this Act and renegotiate any contract to prevent unconscionable profit by the private developer.

An unconscionable profit means any profit or return in excess of 15 per

cent of the private developer's actual cost or expense, which cost or expense shall not include any overhead.

(c) Land disposed of by the board. To be eligible to purchase or lease a residence lot from the board, the buyer shall furnish satisfactory evidence to the board, under oath, and otherwise as required by the board, that he:

(1) Is a citizen of the United States or a declarant alien who has resided in the state for a period of five (5) years or more;

(2) Is at least twenty years of age;

(3) Is a bona fide resident of the State and has a bona fide intent to reside in the development area concerned if successful in purchasing or leasing a lot in such area under this Act; and

(4) Has a gross income not in excess of \$6,500 per annum, including the gross income of his spouse. In determining gross income, however, a \$200 exemption for each of his minor dependents shall be allowed. Any person whom the board finds to be within one of the following classes, shall not be eligible to become an original purchaser or lessee of a residence lot, to wit:

(1) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple lands suitable for residential purposes within the political subdivision and in or reasonably near the place of residence or place of business of such person; and

(2) A person who himself or whose husband or wife (when husband and wife are living together) has pending an unrefused application to purchase a lot in a development area under this Act from the board.

Any person, firm, association or corporation may purchase business lots within a development project for business necessary to service such project. Such lots shall be sold at public auction to the highest bidder for cash.

The board shall require all applicants for the purchase or lease of residence lots to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this Act by the board shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by applicant or other person to the board in connection with any application shall constitute perjury and be punishable as such.

When a development project or projects has or have been sufficiently completed to be suitable for disposition to individual purchasers or lessees, the board shall sell or lease the lots therein to eligible purchasers or lessees and shall give notice of such disposition by publication in at least two newspapers of general circulation on the island of Oahu. Such notice shall state in general terms the size, location and prices or rental of lots to be sold or leased, the terms of sale or lease, and the last date on which application will be received by the board, which date shall not be less than thirty days after the first publication of such notice. Such notice shall also state the times and places at which more detailed information with respect to the sale or lease may be secured by interested persons. Not more than one such lot shall be sold or leased to each applicant.

Provided, that where any land within a development project is acquired from an eleemosynary organization the member or beneficiaries of such organization shall be entitled, if otherwise qualified under the terms of this Act, to first preference to purchase or lease such lands.

The purchaser at his option may pay the purchase price in full on delivery of a deed or pay not less than ten per cent of the purchase price and execute with the board an agreement of sale under the terms of which the unpaid balance is to be paid in monthly installments and over such period as the board determines, with interest on unpaid balances at a rate not to exceed  $6\frac{1}{2}$  per cent, payable monthly, deed to be delivered on final payment; provided, that not less than  $\frac{1}{2}$  of 1 per cent on account of principle shall be required by such agreement to be paid each month. Taxes shall be prorated as of the date of delivery of deed in the case of a cash sale and as of the date of execution of the agreement of sale in the case of a sale in other cases. Each such agreement of sale shall provide that the whole or any part of the unpaid balance of the purchase price plus accrued interests may be paid at any time.

(d) Restrictions on sale and use of residential lots by purchaser.

(1) For a period of five years after the date of purchase of any lot under this Act (which date shall be deemed to be the date of the agreement of sale or deed under which the lot was originally purchased or agreed to be purchased) such lot shall not be sold by the original purchaser thereof unless the same, together with the improvements thereon, has first been offered in writing to the board under the option reserved by this Act and the board has either refused or failed within the time required by this section to exercise such option.

(2) Any such original purchaser intending to sell such lot and improvements within such five-year period shall first notify the board in writing of such intention, which notice shall specify the original purchaser's address and shall expressly offer to sell such property to the board at a price which shall not exceed the sum of (a) the original cost of the land plus 15 per cent thereof, and (b) the replacement value, less depreciation at the rates used for real property tax purposes, of all buildings and improvements thereon, to be determined by three appraisers, one appointed by the board, one appointed by the owner, and the third by said two appraisers so appointed, the cost of such to be borne equally by the parties. Within thirty days after the receipt of such notice, the board shall in writing notify the original purchaser at the address so specified whether it elects to exercise such option. If the board refuses, or fails within the thirty-day period, to reply to the offer, the original purchaser may sell the property to any other person free from any price restrictions, provided, that if the board elects to purchase, the board shall thereupon use its best efforts to dispose of it as soon as practicable, subject to the lien of any mortgage, to a qualified and responsible person who will assume the obligation of mortgage and debt secured thereby.

(3) The board may resell any lot and improvements so purchased at a price not to exceed the actual cost thereof to the board, with the addition of a reasonable amount to cover overhead and estimated and actual expenses.

(4) Any original deed or original agreement of sale from the board to any original purchaser of a residence lot shall contain a covenant running with the land (and shall, whether or not such condition is contained in such instrument, be subject to the requirement) that the original purchaser shall erect on such lot, within two years following the date of purchase, a suitable residence building to conform to the terms set forth in such instrument, with a proviso that the board may, on application of the original purchaser, extend the period from time to time for good cause shown. Other reasonable restrictions designed to prevent such lots from becoming slum areas may be established by the board for



any development project and included in such agreement of sale or deeds as covenants running with the land for a term of twenty-one years.

(5) No residence lot shall be used for any purpose other than residence purposes for a period of twenty-one years following the date of the first sale of such lot by the board; provided, that in the event the lot is zoned or rezoned by governmental authority for non-residence purposes, such restriction shall be relaxed to the extent permitted by such zoning laws or regulations.

(6) The provisions of subparagraphs 1 and 2 under (d) of this section shall not be applicable to a sale under foreclosure by a mortgagee of any lot, or to the transfer of title by a mortgagee after foreclosure or otherwise to any agency of the United States government pursuant to the terms of any insurance or guarantee of mortgage loan by such agency, or to any subsequent purchaser.

(e) Effect of breach of restriction. Except as otherwise provided in this Act, any sale or attempted sale, contract or conveyance contrary to the provisions of subsection (d) hereof shall be void. Any use contrary to the provisions of subsection (d) may be enjoined by the State, the board, or an owner or owners of the residence lots within the same development project. Except as otherwise provided in this Act, in the event that a sale, contract or conveyance contrary to the provisions of subsection (d) is attempted, or a use contrary to the provisions of subsection (d) is not voluntarily remedied or is not or cannot be remedied by injunction, or a building is not erected in accordance with subsection (d) (4), the lot affected shall be forfeited and the title revested in the State upon suit by the State establishing any of the foregoing. Upon such forfeiture, the board shall sell such lot at public auction, or at private sale, for the current market value, to a purchaser eligible to purchase from the board in the first instance, and the original purchaser shall be reimbursed, insofar as possible, after deduction of costs of resale. Provided, that in the event title to any lot passes to any obligee, or to any agency of the United States government, pursuant to the terms of any insurance or guarantee of mortgage loss by such agency, no such forfeiture or revesting in the board shall be enforced.

(f) Mortgage of residence lots. Nothing herein contained shall prevent the conveyance of a residence lot by way of mortgage to any person or corporation.

(g) Nothing in this Act shall be construed as limiting the power of the board: (1) to vest in an obligee the right, in the event of a default by the board or by the purchaser, to take possession of a development project or lot or cause the appointment of a receiver thereof, free from all the restrictions imposed by this Act; or (2) to vest in the obligee the right, in the event of a default by the purchaser, to acquire title to a lot or the property mortgaged by the purchaser free from all the restrictions imposed by this Act.

(h) Requirement to develop. Any land acquired by the board, which is not subdivided and developed either by the board or a private developer, or is not in the process of subdivision and development for residential use, within two years from the date of its acquisition, shall be offered for sale by the board, free of any liens or encumbrances created by the board, to the owner or owners from whom the fee simple ownership of the same was acquired by the board, or their respective successors in interest, at the price at which the land was purchased. Land shall be considered to be in the process of subdivision and development when the board or the private developer has prepared subdivision and construction plans, arranged for financing, and applied to government agencies, and otherwise taken such steps as may be appropriate for the con-

struction of the proposed development and is diligently prosecuting such development in good faith.

**SECTION 11. Power to lease, pledge or mortgage.** The board also may lease or rent any of the dwellings or other accommodations or any of the lands, buildings, structures or facilities embraced in any development project until such time as it is practicable to sell the same in accordance with this Act and establish and revise the rents or charges therefor; mortgage or pledge any property, real or personal, or any interest therein to any person, firm, corporation or government; enter upon any building or property in order to conduct investigations or to make surveys or soundings; purchase, obtain options upon, acquire by gift, grant, bequest, devise or otherwise, any property, real or personal, or any interest therein, from any person, firm, corporation or government; own, hold, clear and improve property; insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable; procure insurance or guarantees from the federal government of the payment of any debts or parts thereof secured by mortgages made or held by the board on any property included in any development project.

**SECTION 12. Cooperative agreements with other government agencies.** The board may obtain the aid and cooperation of governments in the planning, construction and operation of development projects and enter into such agreements and arrangements as it deems advisable to obtain such aid and cooperation; arrange or enter into agreements with any government for the acquisition by such government of property, options or property rights, or for the furnishing, installing, opening or closing of streets, roads, alleys, sidewalks or other places, or for the furnishing of property services, parks, sewage, water and other facilities in connection with development projects, or for the changing of the map of a political subdivision, or for the planning, replanning, zoning or rezoning of any part of the land included in a development project.

**SECTION 13. Hearings, witnesses, etc.** The board may hold hearings for the purpose of receiving evidence and, in addition, may exercise all the powers set forth in section 7-27 of the Revised Laws; all such hearings shall be public. The board may require such agencies, boards or commissions as are charged with the duty of making investigations and studies of land and land uses to investigate and study such areas as it may designate and, if investigations and studies have been made, to present findings and recommendations with regard to such areas which the board may consider as possible development areas. Any of the investigations or examinations provided for in this Act may be conducted by the board or by a committee appointed by it, or by counsel, or by an officer or employee specially authorized by the board to conduct such investigation or examination. Any committee counsel for the board, or any person designated by it to conduct an investigation or examination may administer oaths, take affidavits and issue subpoenas or commissions.

**SECTION 14. Investment of reserves.** The board may invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to the board under this Act unless otherwise specifically provided by law.

**SECTION 15. Additional powers.** The board, in addition to its powers and notwithstanding anything to the contrary contained in this Act or in any other provision of law, may:

(a) Agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards, in the development or administration of projects, and include in any construction contract, let in connection with a project, stipulations requiring that the contractor and any sub-contractors comply with requirements as to minimum salaries or wages and maximum hours of labor, and comply with any conditions which the federal government may attach to its financial aid of the projects;

(b) Procure or agree to the procurement of insurance of guarantees from a government for the payment of any debts, or parts thereof, incurred by the board, including the payment of premiums on any such insurance;

(c) Purchase its bonds at a price not more than the principle amount thereof and accrued interest, and all bonds so purchased shall be cancelled.

**SECTION 16. Security for funds deposited by board.** The board may, by resolution, provide that all moneys deposited by it shall be secured: (a) by any securities by which funds deposited by the treasurer of the State may be legally secured as provided in section 133-3 of the Revised Laws, or (b) by an undertaking with such sureties as are approved by the board faithfully to keep and pay over upon the order of the board any such deposits and agreed interest thereon, and all banks and trust companies may give any such security for such deposits.

**SECTION 17. Eminent domain.** The board may acquire, by the exercise of the power of eminent domain, the real property or interest in real property authorized to be acquired by section 7, after the adoption of a resolution declaring that the acquisition of the property described in the resolution is in the public interest and necessary for a development project within a development area. The board may exercise the power of eminent domain in the same manner and procedures provided in chapter 8 of the Revised Laws, and otherwise in accordance with all applicable provisions of the general laws of the State.

**SECTION 18. Contracts with federal government.** In addition to the powers conferred upon the board by other provisions of this Act, the board may borrow money or accept grants from the federal government for or in aid of any project which the board is authorized to undertake, take over any land acquired by the federal government for the construction or operation of a development project, take over or lease or manage any development project constructed or owned by the federal government, and to these ends, enter into such contracts, mortgages, leases or other agreements as the federal government may require, including agreements authorizing the federal government to supervise and approve the construction, maintenance and operation of the project. It is the purpose and intent of this Act to authorize the board to do any and all things necessary to secure the financial aid and the cooperation of the federal government in the undertaking, construction, maintenance and operation of any project which the board is empowered to undertake.

**SECTION 19. Contracts.** The board, in addition to its other powers, may make, execute and carry out contracts for, or in connection with, any project in the name of the State, in the manner provided in sections 9-25 to 9-35 and 9-46 of the Revised Laws; and, with regard to such contracts, the term "officers", as used in sections 9-25 to 9-35 of the Revised Laws, means the board or such officer as is authorized by the board to act as its contracting officer. Each contract authorized in this section shall state therein that it is made and executed in the name of the State.

**SECTION 20. Performance bond, procedure.** Whenever the board makes or enters into any contract as provided in section 19 above, it shall require a performance and payment bond conditioned, executed and delivered as provided in chapter 9 of the Revised Laws.

**SECTION 21. Exemption from taxation and assessments.** The board and its property, until resold or leased, shall be exempt from any and all taxes and assessments. Bonds, notes, debentures and other evidences of indebtedness of the board are declared to be issued for a public purpose and to be public instrumentalities and, together with interest thereon, shall be exempt from taxes.

**SECTION 22. Exemption of property from execution sale.** All real property of the board shall be exempt from mechanic's or materialmen's liens; provided, that recovery for such claims may be had from any bond supplied as required by section 20 above. Such real property shall also be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against the board be a charge or lien upon its real property; provided; that the provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of the board or to pursue any remedies for the enforcement of any pledge or lien given by or with the consent of the board.

**SECTION 23. Duty to make reports.** The board shall, at least once a year, file with the governor and with the Legislature, within ten days after the convening of a regular session, general and budget, a report of its activities for the preceding year, and shall recommend such additional legislation or other action that may be necessary in order to carry out the purposes of this Act.

**SECTION 24. Disclosure by private developer; public records.** A private developer or assign, as the term is used in this Act, shall file with the board an enumeration or list of all persons directly or indirectly connected with him or it as a condition precedent to his or its acceptance as such private developer or assign by the board. A private developer or assign who fails to comply with this requirement shall automatically forfeit all rights to any profit under this Act.

All bids and any or all records of a private developer or assign, relating to any and all transactions with the State, shall be public records, as defined in chapter 7 of the Revised Laws, and subject to such use as permitted by chapter 7.

**SECTION 25. Bonds.** The board may issue revenue bonds, and also refunding bonds for the purpose of paying or retiring bonds previously issued, from time to time in such amounts as it may deem advisable for the purpose of this Act. The board may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable: (a) exclusively from the income and revenues of the development project financed with the proceeds of such bonds or with such proceeds together with a grant from the federal government in aid of such project; or (b) exclusively from the income and revenues of certain designated development projects, whether or not they were financed in whole or in part with the proceeds of such bonds. Any such bonds may be additionally secured by a pledge of any revenues of any project or projects.

Neither the members of the board nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof.

**SECTION 26. State and political subdivisions not liable on bonds.** The bonds and other obligations of the board under this Act (and such bonds and obligations shall so state on their face) shall not be a debt of the State or of any political subdivision; neither the State nor political subdivisions shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the board under this Act. The bonds shall not be considered public indebtedness within the meaning of paragraph 2 of section 3, Article VI of the Constitution of the State of Hawaii, nor shall such bonds constitute an indebtedness within the meaning of any other debt limitation or restriction. Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed by any statute.

**SECTION 27. Form and sale of bonds.** The bonds of the board shall be authorized by resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding sixty years from the date thereof, bear interest at such rate or rates, not exceeding six per centum per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms or redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds shall be sold at not less than par at public sale held after notice published once at least five days prior to such sale in a newspaper having a general circulation in the State; provided, that such bonds may be sold at not less than par to the federal government at private sale without any public advertisement.

If any member or officer of the board whose signature appears on any bond or coupon ceases to be such member or official before the delivery of such bond, his signature shall, nevertheless, be valid and sufficient for all purposes, the same as if such member or officer had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, all bonds issued pursuant to this Act shall be fully negotiable.

In any suit, action or proceedings, involving the validity or enforcement of any bond of the board or the security therefor, any such bond, reciting in substance that it has been issued by the board to aid in financing a development project, shall be conclusively deemed to have been issued for a development project, and the project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this Act.

**SECTION 28. Provisions of bonds.** In connection with the issuance of bonds or the incurring of any obligation and to secure the payment of such bonds or obligations, the board in addition to its other powers may:

(a) Pledge all or any part of its revenues under this Act to which its right then exists or may thereafter come into existence;

(b) Covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, in connection with development projects or against permitting or suffering any lien thereon;

(c) Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any project or any part thereof;

(d) Covenant against pledging all or any part of its revenues from any development project to which its right then exists or may thereafter come into

existence, or against permitting or suffering any lien thereon ;

(e) Covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof ;

(f) Covenant as to what other, or additional debts may be incurred by it in the exercise of its authority under this Act ;

(g) Provide for the replacement of lost, destroyed or mutilated bonds ;

(h) Covenant that the board warrants title ;

(i) Covenant as to the amount to be raised each year or other period of time by revenues under this Act, and as to the use and disposition to be made thereof ;

(j) Covenant as to the use of any or all of its property, real or personal acquired or held for use in connection with development projects under this Act ;

(k) Create or authorize the creation of special funds segregating the proceeds of any loans or grants, the revenue of any project or projects, reserves for principal and interest on its bonds and for operating contingencies, and other reserves ; and covenant as to the use and disposal of the moneys held in such funds ;

(l) Redeem the bonds, and covenant for their redemption, and provide the terms and conditions thereof ;

(m) Covenant against extending the time for the payment of its bonds or interest thereon ;

(n) Prescribe the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given ;

(o) Covenant as to the maintenance of its property acquired or held for use in connection with development projects under this Act, and replacement thereof, the insurance to be carried thereon, and the use and disposition of insurance moneys ;

(p) Vest in an obligee, in the event of a default by the board, the right to cure any such default and to advance any moneys necessary for such purpose, and covenant that the moneys so advanced be an additional obligation of such board with such interest, security and priority as may be provided in any lease or contract ;

(q) Covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived ;

(r) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation ;

(s) Covenant to surrender possession of a project or projects or parts thereof upon the happening of an event of default ; and vest in any obligee the right, upon such default and without judicial proceedings, to take possession and use, operate, manage and control such projects or any parts thereof, and to collect and receive revenues arising therefrom in the same manner as such board itself might do, and to dispose of the moneys collected in accordance with the agreement of such obligee with the board ;

(t) Vest in a trustee or trustees the right to enforce any covenant to secure, or pay the bonds, or otherwise relating to such bonds ; provide for the powers

and duties of such trustee or trustees, limit the liabilities thereof, and provide the terms and conditions upon which the trustee or trustees, or the holders of bonds, or any proportion of them may enforce any such covenant;

(u) Make covenants other than, and in addition to, the covenants herein expressly authorized, of like or different character; and execute all instruments necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified, as the government or any purchaser of the bonds of the board may require;

(v) Make such covenants and do any and all such acts and things as may be necessary, convenient or desirable in order to secure its bonds, or, in the absolute discretion of the board, tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein.

**SECTION 29. Remedies of an obligee; mandamus, injunction; possessory action; receiver; accounting, etc.** An obligee of the board may, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee, and subject to the prior and superior right of others:

(a) By mandamus, suit, action or proceeding in law, compel the board, and the members, officers, agents or employees thereof, to perform each and every term, provision and covenant contained in any contract of the board, and require the carrying out of any or all covenants and agreements of the board and the fulfillment of all duties imposed upon the board by this Act;

(b) By suit, action or proceeding in equity, enjoin any act or thing which may be unlawful, or the violation of any of the rights of such obligee of the board;

(c) By suit, action or proceeding in any court of competent jurisdiction, cause possession of any project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the board;

(d) By suit, action or proceeding in any court of competent jurisdiction, upon the happening of an event of default (as defined in a contract of the board), obtain the appointment of a receiver of any development project of the board or any part or parts thereof, and, if such receiver be appointed, he may enter and take possession of such project or any part or parts thereof and operate and maintain same, and collect and receive all revenues or other charges thereafter arising therefrom in the same manner as the board itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the board as the court shall direct;

(e) By suit, action or proceeding in any court of competent jurisdiction, require the board and the members thereof to account as if it and they were the trustees of an express trust.

**SECTION 30. Subordination of mortgage to agreement with government.** The board may agree in any mortgage made by it that such mortgage shall be subordinate to a contract for the supervision by a government of the operation and maintenance of the mortgaged property and the construction of improvements thereon. In such event, any purchaser or purchasers at a sale of the property of the board pursuant to a foreclosure of such mortgage or any other remedy in connection therewith, shall obtain title to such contract.

**SECTION 31. Development project bonds as legal investments.** The State and all of its public officers, municipal corporations, political subdivisions,

and public bodies, all banks, bankers, trust companies, savings banks and institutions, including savings and loan associations, all investment companies, insurance companies, insurance associations and other persons carrying on an insurance business in the State, and all executors, administrators, guardians, trustees and other fiduciaries in the State may legally invest moneys or funds belonging to them or within their control and available for investment under other provisions of law, in any bonds or other obligations issued by the board, and such bonds and other obligations of the board or agency shall be authorized security for all public deposits and shall be fully negotiable in the State. It is the purpose of this section to authorize any of the foregoing to use any funds owned or controlled by them, including (but not limited to) sinking, insurance, investment, retirement, compensation, pension and trust funds and funds held on deposit, for the purchase of any such bonds or other obligations; provided, that nothing contained in this section shall operate to relieve any person, firm or corporation from liability for failure to exercise reasonable care in selecting investments or, in the case of a guardian or trustee, from liability for failure to exercise the judgment and care to observe the duties required of a guardian or trustee by sections 179-14 and 340-6, of the Revised Laws.

**SECTION 32. Policy as to sale prices and rentals.** It is hereby declared to be the policy of the State that the board (acting directly or by an agent or agents) shall manage and operate its development projects in an efficient manner so as to enable it to fix the rentals or prices for lands at the lowest possible rates or sales prices consistent with the purpose of this Act; and that the board shall not construct or operate any such project for profit, or as a source of revenue to the State. To this end, the board shall fix the sales prices for residential lots or rentals for lots or buildings in its projects at no higher rates or prices than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income and receipts of the board from whatever sources derived under the administration of this Act) will be sufficient: (a) to pay, as the same become due, the principal and interest on the bonds of the board; (b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the board; and (c) to create a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve; provided that such rates or prices shall be at least 15 per cent below the going market prices of comparable properties determined in accordance with generally accepted appraisal principles.

**SECTION 33. Agreement to secure federal contributions.** In addition to the powers conferred upon the board by other provisions of this Act, the board, in any contract for annual contributions with the federal government, may obligate itself (which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws) to convey to the federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the board is subject. Such contract may provide, further, that in case of such conveyance, the federal government may complete, operate, manage, lease, convey or otherwise deal with the project in accordance with the terms of such contract; provided, that the contract shall require that, as soon as practicable after the federal government is satisfied that all defaults with respect to the project have been cured and that



the project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the board the project as then constituted.

**SECTION 34. Payments to public bodies.** The board may agree to make such payments to the State, or any political subdivisions thereof (which payments such bodies are hereby authorized to accept), as the board finds consistent with the achievement of the purposes of this Act.

**SECTION 35. Conveyance, lease or agreement in aid of development projects, purchase of bonds.** For the purpose of aiding and cooperating in the planning, construction and operation of development projects located within their respective territorial boundaries, the political subdivisions of the State or other departments and agencies of the State may, upon such terms, with or without consideration, as it may determine:

(a) Dedicate, grant, sell, convey, lease any of its property, or grant easements, licenses or any other rights or privileges therein to the board or to the United States or any agency thereof;

(b) To the extent that it is within the scope of each of their respective functions: (1) cause the services customarily provided by each of them to be rendered for the benefit of development projects and the occupants thereof; (2) provide and maintain parks and sewage, water, lights and other facilities adjacent to or in connection with such projects; (3) open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other such facilities; and (4) change the map of a political subdivision or plan, replan, zone or rezone any part of a political subdivision;

(c) Enter into agreements with the board with respect to the exercise of their powers relating to the preparation of designated development areas for such projects;

(d) Employ (notwithstanding the provisions of any other laws as to what constitute legal investments) any available funds belonging to them or within their control, including funds derived from the sale or furnishing of property or facilities to the board, in the purchase of the bonds or other obligations of the board to the extent provided by section 31, and exercise all the rights of any holder of such bonds or other obligations;

(e) Do any and all things, necessary or convenient to aid and cooperate in the planning, undertaking, construction of such development projects;

(f) Enter into contracts with the board or the United States for any period, agreeing to exercise any of the powers conferred hereby or to take any other action in aid of such development projects.

In connection with the exercise of this power, any political subdivision may incur the entire expense of any such public improvements located within its territorial boundaries without assessment against abutting property owners.

For the purpose of aiding and cooperating in the planning, construction and operation of development projects, the board, in its powers of management of the public lands, may use public lands for the purposes of this Act, and the Hawaiian homes commission and any other officers of the State having power to manage or dispose of its public lands, may, with the approval of the governor and with or without consideration, grant, sell, convey or lease for any period, any parts of such public lands (without limit as to area) to the board for the purposes of this Act or to the United States or any agency hereof.

Any law or statute to the contrary notwithstanding, any gift, grant, sale, conveyance, lease or agreement provided for in this section may be made by

any other department or agency of the State or political subdivisions of the State, without appraisal, public notice, advertisement or public bidding.

If at any time title to, or possession of, any development project is held by any public body or governmental agency authorized by law to engage in development projects or administration of development projects, including any agency or instrumentality of the United States, the provisions of any agreement made under this Act relating to such project shall inure to the benefit of, and may be enforced by, such public body or governmental agency.

Insofar as the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall be controlling.

**SECTION 36. Governmental advances and donations.** The board shall submit to the legislature at each regular session estimates of the amount of the administrative expenses and overhead of the board for the succeeding annual period for the purposes of this Act so that the legislature may make an appropriation therefor if it deems such action advisable.

Any political subdivision within the territorial boundaries of which a development project or projects are located or about to be located may, from time to time, make donations or advances to the board of such sums as such political subdivision in its discretion may determine; such advances or donations shall be made for the purpose of aiding or cooperating in the construction and operation of such development project or projects. The board, when it has money available therefor, shall reimburse political subdivisions for all advances made by way of a loan to it.

**SECTION 37. Action of political subdivision by resolution.** All action authorized to be taken under this Act by any political subdivision may be by resolution adopted by a majority of all the members of its governing body, which resolution may be adopted at the meeting of the governing body at which such resolution is introduced and shall take effect immediately upon such adoption, and no such resolution need be published or posted.

**SECTION 38. Purpose of Act.** It is the purpose and intent of the legislature that other departments and agencies of the State and the political subdivisions of the State shall do any and all things necessary to aid and cooperate in the planning, construction, sale, lease and operation of development projects by the board or the United States.

**SECTION 39. Revolving fund.** The director of the budget shall set up, out of any moneys heretofore or hereafter appropriated for the purposes of this Act, a revolving fund to be known as the development revolving fund. All unexpended balances of appropriations, allocations, allotments, special revolving funds or other funds heretofore created and made available for the purposes of developing or administering any project subject to this Act shall be transferred to the development project revolving fund; provided, that any unexpended balances in any special revolving funds or other funds created and made available, in whole or in part, with federal funds or with assistance from the federal government or for housing undertaken pursuant to a contract between the federal government and the State or the board shall be segregated from other funds and shall be deposited and maintained as required by the federal government.

All moneys received by the board under or pursuant to this Act, including refunds, reimbursements, and revenues, shall be deposited in the revolving fund, to the extent permitted by federal law or regulation. Except as otherwise

## ACT 7

provided by this Act, the revolving fund may be expended by the board for any and all of the purposes of this Act, including, without prejudice to the generality of the foregoing, the acquisition, clearance and improvement of property; the construction and reconstruction of building sites; and the development and administration of development projects and administration expenses. The provisions of this section shall be subject to applicable federal law and regulation, to any contract between the federal government and the State or the board relating to development projects subject to this Act, and to the terms and conditions of contributions or other assistance from the federal government.

**SECTION 40. Conformity with federal law.** In carrying out this Act the State and the board shall cooperate, to the fullest extent consistent with the provisions of this Act, with the federal government, and shall respectively take such action through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this State all advantages available under the provisions of any federal law or regulation.

**SECTION 41. Existing obligations, no impairment.** Nothing contained in this Act shall impair or affect any outstanding notes, contracts or obligations of the State or of the board.

**SECTION 42. Severability.** Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**SECTION 43. Effective date.** This Act shall take effect upon its approval.  
(Approved May 4, 1961.) S.B. 378.

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## ACT 7

A Bill for an Act to Amend Section 11-85.2, Revised Laws of Hawaii 1955, as Amended, Relating to Election Contests.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** This Act provides for automatic recounting of ballots by the circuit court under certain conditions.

**SECTION 2.** Section 11-85.2, Revised Laws of Hawaii 1955, as amended is hereby further amended by adding a new paragraph at the end of said section to read as follows:

“If the difference in the votes cast for the winning and losing candidates for an office elected by the voters from the entire State appears to be one eighth of one per cent or less of the total ballots cast for the office, or in the case of votes cast for the candidates for any other State or county office the difference in the votes cast for the winning and losing candidates appears to be one fourth of one per cent or less of the total ballots cast for the particular office, then the circuit court, upon the filing of a complaint by any candidate or political party directly interested or by any thirty qualified voters showing that the difference in votes cast exists as herein provided, shall order a recount of a part of the ballots cast as agreed upon by the candidates involved or upon the absence of such agreement, then all of the ballots cast for the office where the

contest exists. In cases where several candidates are to be elected to a multiple office, if the difference as herein mentioned appears between the votes received by the lowest among the winning candidates and those received by the highest among the losing candidates, the circuit court shall likewise order a recount of the questioned ballots. The lowest and highest among the winning and losing candidates may include more than one candidate, provided that they are within the difference as herein mentioned."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1961.) **H.B. 35.**

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## ACT 8

An Act Relating to the Transfer of Personnel and Amending Section 32 of the Hawaii State Government Reorganization Act of 1959.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The second paragraph of section 32 of the Hawaii State Government Reorganization Act of 1959 is hereby amended to read as follows:

"No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act, and such employee may be transferred or appointed to a civil service position without the necessity of examination; provided that such employee possesses the minimum qualifications for the position to which he is transferred or appointed; and provided further that subsequent changes in status may be made pursuant to chapters 3 and 4 of the Revised Laws of Hawaii 1955, as amended."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1961.) **S.B. 660.**

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## ACT 9

An Act Relating to Child Labor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection (f) of section 88-22, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"(f) The director may make such rules and regulations, allowing minors under fourteen years of age to be employed or permitted to work as dancers, singers, musicians, entertainers, motion picture or theatrical performers or in harvesting of coffee, under such circumstances and conditions as the director may prescribe, provided such work is performed when such minors are not legally required to attend school, and, provided further, that, with respect to work in harvesting of coffee, the director has determined that sufficient adult labor to perform such work is unavailable. Nothing in this subsection will be construed to allow any employer to employ or permit such minor to work in harvesting of coffee from and after June 30, 1963."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1961.) **S.B. 707.**

### ACT 10

An Act Relating to County Vehicular Taxes, Including Number Plates on Motor Vehicles and Amending Section 130-7 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 130-7 of the Revised Laws of Hawaii 1955 is hereby amended by deleting in the second paragraph thereof the word "sixteen" and inserting in lieu thereof the word "twelve".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1961.) **S.B. 943.**

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### ACT 11

A Bill for an Act to Amend Section 130-9 of the Revised Laws of Hawaii 1955 Relating to Uniform Number Plates and its Purchase.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 130-9 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto, at the end thereof, the following paragraph:

"The number plates for members of the Congress of the United States from the State of Hawaii shall designate their office and be of the type and color authorized for motor vehicles in the State; provided that the number on the plates of the United States Senator and the United States Representative shall be assigned in terms of seniority of service with the Senator or Representative having the greater length of service having the number '1' and consecutively thereafter for the others. The lieutenant governor shall, in his procurement of the number plates on behalf of the counties, contract for the number plates of the members of Congress and all expenses connected therewith shall be paid by the respective member of Congress."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 8, 1961.) **H.B. 634.**

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### ACT 12

An Act Prohibiting Covenants in Leases Wherein the Lessee Must Sell His Crop to the Lessor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Unlawful covenants.** It shall be unlawful for any person, association, firm or corporation, as the lessor, to lease agricultural or farm lands with covenants or clauses in the lease stating that the lessee must sell all or a portion of the crop grown on such agricultural or farm lands to the lessor.

SECTION 2. **No recovery on illegal covenants.** Any covenant or clause contained in any lease made by any person, association, firm or corporation in violation of this Act is hereby declared to be illegal, and no recovery thereon shall be had, provided that such illegal covenant or clause shall not affect the validity of the remainder of such lease.

SECTION 3. This Act shall take effect upon its approval, provided, however, that the provisions of this Act shall not apply to leases existing at or prior to the effective date hereof.

(Approved May 8, 1961.) **S.B. 860.**

### ACT 13

An Act Relating to Employment of Discharged and Temporary Released Patients at Hansen's Disease Settlements.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 50-24, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new third paragraph to read as follows:

"Discharged patients who have been employed prior to December 30, 1960 under chapters 3 and 4 in accordance with the second paragraph of this section shall be eligible to receive the same rights and privileges as those enjoyed by temporary released patients employed under the second paragraph of this section."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1961.) **S.B. 490.**

### ACT 14

A Bill for an Act Relating to the Acquiring and Possessing of Firearms by Aliens.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to allow aliens to acquire and possess firearms.

SECTION 2. Section 157-3 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new sentence at the end of the second paragraph thereof to read as follows:

"Each chief of police may also issue permits to aliens of the age of twenty years or more for use of rifles and shotguns for a period not exceeding 60 days, after such alien had first procured a hunting license under the provisions of sections 21-140 to 21-145."

SECTION 3. Section 157-4 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the second paragraph thereof and substituting in its place the following paragraph:

"It shall be unlawful for any person to own or possess such rifle, unless he is a citizen of the United States, or an alien who has procured a hunting license under the provisions of sections 21-140 to 21-145 and a firearms permit under the preceding section."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 9, 1961.) **H.B. 452.**

**ACT 15**

A Bill for an Act Amending Section 157-7, Revised Laws of Hawaii 1955, Relating to Firearms and Ammunition.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 157-7 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 157-7. Ownership or possession by fugitive from justice or by person convicted of certain crimes prohibited; penalty.** (a) No person who is a fugitive from justice shall own or have in his possession or under his control any firearm or ammunition therefor. As used in this section the term 'fugitive from justice' means any person who has fled from any state, territory, the District of Columbia, or possession of the United States to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

(b) No person who has been convicted in this State or elsewhere, of having committed or attempted a crime of violence, or of the illegal use, possession or sale of narcotics, shall own or have in his possession or under his control any firearm or ammunition therefor.

(c) Any person violating this section or section 157-6 shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1961.) **H.B. 548.**

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**ACT 16**

An Act Relating to the Probationary Period for Teachers.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 38-5, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Sec. 38-5. Probationary period of employment.** The first two years of consecutive employment of a public school teacher shall be a probationary period of employment, provided, that such consecutive employment may be interrupted by maternity leave, sick leave, military leave or any other leave deemed sufficient and proper by the board, not exceeding a period of two years, without loss of credit for the immediately preceding period of probationary employment. Any full-time intern teaching period served in the State of Hawaii shall also be credited toward fulfillment of the probationary period. Any annual contract with any teacher in a probationary period of employment may or may not be renewed as the department of education shall see fit. The department of education may, during such probationary period, discharge or demote a teacher for any of the causes specified in section 38-5.2. Teachers who have been in continuous employment in the public schools for a period of two years prior to September 1, 1959, shall be deemed to have completed their probationary period."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 90.**

## ACT 17

An Act Relating to Eligibility Lists Under Civil Service.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 3-21 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the second sentence of the second paragraph of subsection (e) thereof, to read as follows:

"The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the reemployment lists and third the open competitive lists; provided, that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 133.**

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## ACT 18

An Act Relating to Service Awards for Public Officers and Employees.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 3-8 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 3-8. Service awards.** The head of each department of the State or county governments, or where appropriate the chief executive of such respective governments, shall present to any public officer or employee who has completed 25 years or more of government service, or in conjunction with such service in other departments of the federal, state or county governments, a certificate, plaque or other suitable memento and the cost of the same shall be a proper charge against the appropriation of the department in which the employee serves; provided, that the cost of any such certificate, plaque, or memento shall not exceed the sum of \$25. A further presentation shall likewise be made to any officer or employee who, upon retirement, has completed 10 or more years of such government service."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 247.**

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## ACT 19

An Act Relating to Assignments of Salary, Endorsement of Notes, and Loans by Officers and Employees of the City and County of Honolulu.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 149-53 of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 248.**



## ACT 20

An Act Relating to Building and Loan Associations, and Amending Chapter 180, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 180 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered, reading as follows:

**Section 180- . Exclusiveness of name.** No person, firm, company, association, fiduciary, partnership, or corporation, either domestic or foreign, unless he or it is lawfully authorized to do business in this State under the provisions of this chapter and is actually engaged in carrying on a savings association business shall transact any business under any name or title which contains the terms 'savings association,' 'savings and loan association,' 'building and loan association,' 'building association,' or any combination employing either or both of the words 'building' or 'loan' with one or more of the words 'saving,' 'savings,' 'thrift' or words of similar import, or any combination employing one or more of the words 'saving,' 'savings,' 'thrift' or words of similar import with one or more of the words 'association,' 'institution,' 'society,' 'company,' 'corporation' or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that his or its business is the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that his or its business is that of an association. Upon application by the bank examiner or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this section. Any person who violates any provision of this section shall be punished by a fine of not more than \$100 and each day of violation shall constitute a separate offense. The prohibitions of this section shall not apply to any corporation or association formed for the purpose of promoting the interests of savings associations, the membership of which is comprised of savings associations, their officers or other representatives, or to corporations subject to the provisions of part I of chapter 178."

SECTION 2. The use of names which might otherwise be prohibited by this Act may be continued, notwithstanding the provisions of Section 1 of this Act, where such names are being used prior to the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 671.**

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## ACT 21

An Act Relating to the Hawaii Insurance Law and Amending Section 181-290, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 181-290 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

- (a) By amending the sub-title to read as follows:  
"Banks and savings and loan associations."
- (b) By amending paragraph (b) to read as follows:  
"(b) An insurer may invest any of its funds in shares or savings accounts in solvent savings and loan associations."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 672.**

## ACT 22

An Act Relating to Building and Loan Associations, and Amending Chapter 180, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 180 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By substituting the word "thirty" for the word "twenty" in the first sentence of third paragraph (that paragraph with the subtitle "Loans, dealing in") of section 180-52.

(b) By substituting the words "Property improvement loans" for the words "Unsecured surplus loans" as the subtitle for section 180-57.5.

(c) By amending paragraph (a) of section 180-57.5 to read as follows:

"(a) The net proceeds of such loan do not exceed \$5,000 or the maximum home or apartment house improvement loans allowed federal associations by the Federal Home Loan Bank, whichever amount is larger."

(d) By substituting the word "five" for the word "three" in paragraph (c) of section 180-57.5.

(e) By deleting the amount "\$35,000" appearing at the end of the first sentence of paragraph 1 of section 180-60 and substituting therefor the amount "\$50,000".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 675.**

## ACT 23

An Act Relating to Building and Loan Associations, and Amending Chapter 180, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 180 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By deleting from the first sentence of section 180-49.5 the proviso reading as follows:

"provided, that it shall remain open till 6:00 P.M. for the transaction of business for at least one night a week;"

(b) By adding the following sentence at the end of section 180-63:

"The reporting forms to be used by state chartered associations in furnishing the bank examiner with information necessary for regulatory supervision

shall be identical with those reporting forms currently being used by the Federal Home Loan Bank or the Federal Savings and Loan Insurance Corporation."

(c) By adding a new section, to be appropriately numbered, reading as follows:

**"Sec. 180- . Circulating untrue statements—a misdemeanor.** Any person who wilfully or knowingly makes, circulates, or transmits to another or others any statement or rumor, written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any association doing business in this State, or who knowingly counsels, aids, procures, or induces another to start, transmit, or circulate any such statement or rumor, shall be guilty of a misdemeanor and subject to punishment as provided in section 180-69."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 676.**

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## ACT 24

An Act to Amend Section 180-47, Revised Laws of Hawaii 1955, Relating to Dividends of Savings and Loan Associations.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 180-47, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 180-47. Dividends.** The board of directors of an association may declare a dividend payable semi-annually to shareholders of record as of June 30 and December 31 of each year after transfers to reserves and undivided profits have been made. If the dividend payment date as determined above falls on a legal holiday, then such dividends shall be payable on the next preceding business day.

Dividends may be computed and paid as the board of directors may see fit upon such terms and conditions as may be reasonable on Christmas share accounts to the date of withdrawal, although such withdrawal falls between two regular dividend payment periods. In no case shall the dividend rate paid on Christmas share accounts be higher than the prevailing dividend rate currently paid by the association on ordinary share accounts.

Payments of net earnings to shareholders are dividends and shall not be referred to as interest.

Dividends shall be credited to accounts on the books of the association on the dividend payment date unless a shareholder has requested and the board of directors has agreed to pay dividend on all or part of any account in cash. Dividends payable in cash shall be paid on the dividend payment date and may be paid by check or bank draft. All holders of withdrawable shares shall participate equally in dividends pro rata to the book value of their respective accounts, except a bonus dividend may be paid on an approved installment account for systematic savings; provided that no association shall be required to pay or credit dividends on accounts of \$5 or less.

Except as above provided, dividends shall be declared on the book value of each account at the beginning of the dividend period, plus payments thereon made during the dividend period (less amounts repurchased and noticed for

repurchase, which for dividend purposes shall be deducted from the latest previous payments thereon) computed at the dividend rate for the time invested, determined as provided below. The date of investment shall be the date of the actual receipt by the association of a payment on an account, except that the board of directors may fix a date which shall not be later than the tenth of the month, for determining the date of investment; provided, however, that the board of directors may permit investments of \$100 or more to receive dividends calculated from the date of actual receipt by the association in any event. Payments on accounts affected by such determination date, received by the association on or before such determination date, shall receive dividends as if invested on the first of the month during which such payments were made.

If an association elects to pay dividends semi-annually, within fifteen days preceding June 30 and December 31 of each year, such association may declare and publicize a dividend rate for the ensuing six months period; provided that such dividends will not exceed accumulated undivided profits and anticipated net earnings for the period.

SECTION 2. This Act shall take effect as of July 1, 1961.

(Approved May 11, 1961.) **S.B. 684.**

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### ACT 25

An Act to Amend Chapter 158, Revised Laws of Hawaii 1955, Gasoline, Fuel, and Motor Oil, with Respect to the Requirement of Markings on Certain Containers.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 158-1, **Markings on Containers**, is hereby amended by inserting the following sentence at the end of the first paragraph thereof: "On any container with a net content of one United States gallon or less, the letters SAE, the brand, trade-mark or trade name, the grade classification number, and the words 'Motor Oil' or 'Lubricating Oil' may be painted, printed, embossed or otherwise firmly affixed on such container in letters and numerals not less than one-sixteenth inch in width and not less than one-fourth inch in height, and such designation shall constitute compliance with the provisions of this section."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 736.**

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### ACT 26

An Act Changing the Name of "Puumaile and Hilo Memorial Hospital" to "Hilo Hospital."

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Part V of Chapter 146 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the words "Puumaile and Hilo Memorial Hospital" wherever they appear and inserting in lieu thereof the words "Hilo Hospital".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 881.**

**ACT 27**

An Act to Amend Section 178-46 of the Revised Laws of Hawaii 1955, Relating to Bank Directors' Meetings; Examination of Reports.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 178-46 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the second sentence thereof and inserting in lieu thereof the following sentence:

"At every such meeting the president or cashier shall submit a detailed report showing every loan and investment which exceeds in amount one-half of one per cent of the capital and surplus of the bank or \$25,000, whichever is the lesser, made during the preceding month or since the last report, also a separate report of all loans made to any officer, director or employee (except such loans as are excluded from the requirements of approval by Section 178-62), whether made direct or indirect or contingent, and the amount of security held therefor, if any, unless an advisory, discount or executive committee, the majority of whom are not active officers of the bank, shall make and file a written report stating that the committee has examined such reports and approved thereof, or stating its disapproval of any item appearing therein."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 907.**

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**ACT 28**

An Act to Amend Section 178-35, Revised Laws of Hawaii 1955, Relating to the Powers of Banks.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection (d) of Section 178-35, Revised Laws of Hawaii 1955 is hereby amended by deleting the word "shall" appearing in the eleventh line thereof and inserting the word "may" in lieu thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **S.B. 992.**

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**ACT 29**

A Bill for an Act Relating to Fishing.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 21-68 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following manner:

(a) By deleting the first paragraph thereof and substituting therefor the following:

"It shall be unlawful for any person to fish in the waters of the Waikiki reclamation canal, the drainage canal constructed in connection with Kapio-lani Boulevard, the Kapalama drainage canal or off Heeia-kea wharf on Oahu; or the Kapaa and Waikaena canals on Kauai; with any device whatsoever, except as hereinafter provided."

(b) By deleting the second paragraph thereof and substituting therefor the following:

"With reference to any of the places or areas named above, any person may at any time fish or take fish with one line, or one rod and line, provided the line shall not have more than two hooks; or may take crabs with not more than ten nets; provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **H.B. 143.**

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### ACT 30

A Bill for an Act Relating to the use of Nets and Traps for Aquarium Purposes, and Amending Section 21-64 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Paragraph 1 of section 21-64 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"The Board of Agriculture and Conservation or agents designated by said Board may, upon receipt of a written application, issue a permit to use fine meshed traps or fine meshed nets, other than throw nets, for the taking of marine or fresh water non-game fish for aquarium purposes. Such permits shall be issued only to persons who can satisfy the Board or its agents that they possess facilities to and can maintain fish alive and in reasonable health. The Board may, at its discretion, cancel any aquarium fish permit for any infraction of the terms of such permit when such fact is made evident to the satisfaction of the Board."

SECTION 2. Paragraph 3 of section 21-64 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"For the purposes of this section 'aquarium purposes' means to hold salt water fish, fresh water non-game fish, or other aquatic life alive in a state of captivity as pets, for scientific study, or for public exhibition or display, or for sale for these purposes; 'aquarium fish permit' means a permit issued by the Board for the use of fine mesh nets and traps to take salt water fish, fresh water non-game fish, or other aquatic life for aquarium purposes."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **H.B. 255.**

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### ACT 31

A Bill for an Act to Amend Section 90-2 (c) of the Revised Laws of Hawaii 1955, Relating to Employees Covered by the Hawaii Employment Relations Act.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 90-2 (c) of the Revised Laws of Hawaii 1955 is hereby amended by deleting "or any person engaged directly in the milking or feeding of milch cows," in lines thirty and thirty-one thereof.

ACT 32

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **H.B. 584.**

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**ACT 32**

A Bill for an Act Providing for the Employment of Temporary Teachers, and for Their Continued Employment.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 38 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section thereto, to read as follows:

**"Section ( ). Temporary teachers.** Any other provision of law to the contrary notwithstanding, any teacher who does not hold a certificate from the department of education but who has been employed by the department as a teacher for ten or more years, any five of which have been consecutive and was still so employed subsequent to September 1, 1959, shall have the rights set forth in Section 38-5.1 of the Revised Laws of Hawaii 1955, as amended, and the continued employment of such teacher is hereby authorized; provided that as an additional condition of the continued employment of such teacher, the department may require that such teacher complete a program of professional improvement set by the department."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1961.) **H.B. 991.**

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**ACT 33**

A Bill for an Act Amending Chapter 9, Part 2, Revised Laws of Hawaii 1955, as Amended Relating to Public Works and Contracts.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend Section 9-44 to read as follows:

**"Section 9-44. Penalty.** Any officer of the State or of any municipality, county, or other political subdivision thereof, or any person acting under or for such officer, or any other person who violates any provision of sections 9-21, 9-22, and 9-37 to 9-43 shall be fined not more than \$1,000 or imprisoned not more than one year or both."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 15, 1961.) **H.B. 1461.**

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**ACT 34**

An Act Relating to Flood Control and Flood Water Conservation Projects and Providing for Undertaking a Study for the Development of a General Flood Control Plan and Laws with Respect Thereto.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Declaration of Purpose.** The control of flood waters and

the protection of life and property resulting therefrom are deemed to be of primary importance to the State and its political subdivisions. It is hereby declared that the State should assist its political subdivisions in obtaining the benefits of federal funds which are or may become available for flood control and conservation projects through prior or future Acts of Congress. It is further declared that the conservation of water, a natural resource and a basic asset, is so inherently related to the control of flood waters that a separation of these two aspects would not be to the best interest of the people of the State.

**SECTION 2. Definitions.** The following terms, whenever used and referred to in this Act, shall have the following respective meanings, unless a different meaning clearly appears in the context :

“Flood Control” or “control of flood waters” shall mean the prevention of damages and the protection of life and property which may result from overflow of storm waters from streams and rivers.

“Board” shall mean the Board of Land and Natural Resources.

“Political subdivisions” shall mean any of the several counties under existence by virtue of the Laws of Hawaii or any legally organized district or political incorporation thereof.

“Flood Water Control and Conservation Law” shall mean a compilation which will consolidate and, as required, amend existing laws relating to drainage and flood water, its conservation and control.

**SECTION 3. Designation of State Agency.** The Board of Land and Natural Resources, whose functions include under the existing Laws of Hawaii, the management and administration of water resources for the State and the development of water projects financed by the State, is hereby designated as the state agency responsible for the accomplishment of the purpose of this Act.

**SECTION 4. Powers of the Board.** In addition to those powers and responsibilities of the Board established by existing law, the Board shall have the powers and the responsibility to implement the declared purpose of this Act with regard to flood control actions in the following matters :

a. Serve as the state agency to coordinate information on flood control planning within the State in cooperation with all agencies of the state and federal governments.

b. Establish a flood control planning group to assemble basic data on storms and floods and render technical assistance to any of the political subdivisions upon its request in the formulation of flood control projects.

c. With respect to federal flood control projects the Board shall: (1) act as the agency of the State to review projects submitted for state approval to determine conformance of the project with state programs and make recommendations to the governor; (2) develop and submit to the legislature for approval a general state policy for state participation with the political subdivisions thereof in the assurances of local cooperation required by federal flood control projects; (3) when any of the political subdivisions request financial assistance in meeting the requirements of local cooperation for any federal project, the department shall review such requests and make appropriate recommendations to the legislature for state participation; (4) when state participation in a federal project has been authorized, the department will execute agreements with the political subdivision affected to implement the state assurances of participation.



**SECTION 5. Development of Flood Water Control and Conservation Plan and laws thereto.** The Board shall undertake the development of a general flood control plan and a flood water control and conservation law for the State. A draft of the plan and law shall be submitted to the legislature for consideration at least twenty (20) days before the convening of the General Session of the Legislature in 1963.

**SECTION 6. Existing Laws and Severability.** All laws or parts of laws which are held to be inconsistent with this Act are hereby amended to conform with the provisions of this Act. The provisions of this Act are declared to be severable, and if any portion of this Act or the application thereof to any person, circumstance, or property is held to be invalid for any reason, the validity of the remainder of this Act or the application of such portion to other persons, circumstances or property shall not be affected thereby.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved May 16, 1961.) **S.B. 27.**

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### **ACT 35**

An Act to Amend Chapter 359 of the Revised Laws of Hawaii 1955, as Amended, Relating to the Civil Defense and Emergency Act, by Deleting Therefrom Section 32 which Provides for the Expiration Date Thereof.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 359 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting therefrom section 32, which relates to the expiration date thereof.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 16, 1961.) **S.B. 31.**

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### **ACT 36**

An Act to Broaden the Scope of the Captain Cook Memorial Fund.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The first sentence of the second paragraph of section 13-8 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"The comptroller may purchase or otherwise acquire original books, mementos, pamphlets, documents, or other articles of historical value relating to the life of Captain James Cook, or connected with the history, discovery and exploration of the Hawaiian Islands, or copies, facsimilies or replicas thereof or other data relating thereto, and prepare and publish in his discretion books, documents, pamphlets or other publications relating thereto."

**SECTION 2.** Section 13-8 of the Revised Laws of Hawaii 1955 is hereby further amended by substituting the word "comptroller" for "board" where the latter word appears in paragraph 1 and in the second and third sentences of paragraph 2 of said section.

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 16, 1961.) **S.B. 50.**

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### ACT 37

An Act Relating to the Execution of Revenue Bonds Issued by Agencies of the State of Hawaii.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The second sentence of section 137-63, Revised Laws of Hawaii 1955, is hereby amended as follows:  
"Further, they shall be countersigned by the Director of the Budget of the State, or in lieu thereof shall bear a lithographed or engraved facsimile of the signature of the Director of the Budget of the State."

SECTION 2. This Act shall take effect upon its approval.  
(Approved May 16, 1961.) **S.B. 76.**

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### ACT 38

An Act Relating to Accounting and Cremation of Paid and Cancelled Warrants, Bonds and Coupons of the State of Hawaii and its Agencies.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 34-54 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"The director of the budget and comptroller of the State may supervise and conduct the burning and destruction of all warrants of the State which have been paid and which bear any date ten years prior to the date of burning and destruction. The director of the budget and comptroller of the State may also supervise and conduct the burning and destruction of state bonds and interest coupons which have been paid and which bear any date two years prior to the date of burning and destruction, provided, however, that the director of the budget and comptroller of the State may appoint the fiscal agent for the bond issue to supervise and conduct the burning and destruction of state bonds and interest coupons which have been paid and which bear any date two years prior to the date of burning and destruction. The fiscal agent so appointed shall submit reports as required by the director of the budget and comptroller."

SECTION 2. Section 34-55 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"Before the burning and destruction of such warrants, bonds and interest coupons the comptroller or the fiscal agent appointed pursuant to section 34-54 shall conduct such examination and investigation as is necessary to determine that the warrants to be burned and destroyed bear any date ten years prior to the date of burning and destruction and that the bonds and interest coupons bear any date two years prior to the date of burning and destruction."

SECTION 3. This Act shall take effect upon its approval.  
(Approved May 16, 1961.) **S.B. 79.**

### ACT 39

An Act Amending Sections 40-4 and 40-8 of the Revised Laws of Hawaii 1955, as Amended, Relating to Public Kindergartens and Schools and Attendance.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend Section 40-4 of the Revised Laws of Hawaii 1955, as amended, to read as follows:

**"Sec. 40-4. Kindergartens; attendance.** The department may establish and maintain kindergartens with a program of instruction in school zones in which there are at least 15 children eligible to attend, as a part of the public school system.

No child shall attend any kindergarten unless he will be at least 5 years of age on or before December thirty-first of the school year; provided that a child attending a school which convenes after the regular school schedule shall be 5 years of age on or before 125 days following the date such school shall convene. No child shall remain in a kindergarten for more than a regular school year.

The department may accept gifts to establish and maintain kindergartens."

SECTION 2. Amend section 40-8 of the Revised Laws of Hawaii 1955, as amended, to read as follows:

**"Sec. 40-8. Public schools; attendance.** Except as authorized by section 40-4, no child shall attend any public school unless he will be at least 6 years of age on or before December thirty-first of the school year; provided that a child attending a school which convenes after the regular school schedule shall be 6 years of age on or before 125 days following the date such school shall convene.

All teachers who teach in the first and second grades and principals of public schools shall enforce this section and require proof of age by birth certificates or certificates of registration, or if none can be obtained, then by satisfactory evidence."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **S.B. 112.**

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### ACT 40

An Act Relating to Reemployment Rights after Military Service, and Amending Section 5-48, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 5-48, Revised Laws of Hawaii 1955, is hereby amended by deleting the phrase "Selective Service Act" in line 10 of said section and substituting the phrase "Universal Military Training and Service Act" in its place.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **S.B. 149.**

### ACT 41

An Act to Amend Sub-section (u) of Section 3-21 of the Revised Laws of Hawaii 1955, as Amended, Relating to Performance Ratings.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sub-section (u) of Section 3-21 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following sentence to the end of the first paragraph thereof:

"A copy of the performance rating shall also be given to the affected employee."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **S.B. 481.**

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### ACT 42

An Act Relating to Annual Reports in State Government.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. All annual reports that are or shall be required to be submitted by a state agency to the governor or another state agency, shall be submitted on a fiscal year basis; provided, that the governor may prescribe other due dates for annual reports when the fiscal year basis would not be feasible.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **S.B. 706.**

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### ACT 43

A Bill for an Act Appropriating \$87,500 to Defray the Expenses of Hosting the 1961 National Governors' Conference.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The sum of \$87,500, or so much thereof as may be necessary and not otherwise appropriated, is hereby appropriated from the general revenues of the State to defray the expenses for holding the 1961 National Governors' Conference in Hawaii; provided, that any unencumbered balance remaining on August 31, 1961 shall lapse into the general fund.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 246.**

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### ACT 44

A Bill for an Act to Provide for the Extension of the Expiration Date of Act 288, Session Laws of Hawaii 1957.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 17, Act 288, Session Laws of Hawaii 1957 is hereby amended by deleting the second sentence and by substituting the following:

ACT 45

"If no corporation is organized by June 30, 1965, pursuant to this Act, then and in that event, this Act shall become null and void."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 337.**

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**ACT 45**

A Bill for an Act Relating to Commercial Employment Agencies and Amending Section 88A-4 and 88A-10 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 88A-4 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the sum "\$3,000" appearing therein and inserting in lieu thereof, the sum "\$5,000".

SECTION 2. Section 88A-10 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Sec. 88A-10. Fees.** The director shall have the power to make rules and regulations as to the fees that employment agencies may charge. No employment agency shall charge, receive, or attempt to collect any fee in excess of that established by the director."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 412.**

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**ACT 46**

A Bill for an Act Amending Section 74-5 of the Revised Laws of Hawaii 1955, as Amended, Relating to the Hawaii Housing Authority.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The first paragraph of section 74-5, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 74-5. Housing authority to be public corporation; commissioners.** An authority to be known as the Hawaii housing authority is hereby created. Such authority shall be a public body and a body corporate and politic with perpetual existence, and shall consist of six commissioners who shall be appointed by the governor by and with the consent of the senate. Not more than three of the commission shall be members of the same political party. Two of the members shall be appointed from at large, one shall be appointed from the city and county of Honolulu and one from each of the counties of Hawaii, Maui and Kauai. The director of social services shall be an additional ex officio voting member of the housing authority as provided for in the Reorganization Act of 1959, but shall not be an ex officio chairman. The chairman shall be elected on an annual basis by the commissioners."

SECTION 2. The fifth sentence of the second paragraph of section 74-5, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Four commissioners shall constitute a quorum."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 479.**

### ACT 47

A Bill for an Act Providing for Transferring a Trial from the District in Which Offense was Committed to the District in Which the Accused Resides.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 216-8 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding at the end of the first paragraph thereof the following sentence:

"Any person arrested in a district other than that in which he resides, may elect upon the consent of a duly authorized prosecuting officer of the district in which the offense was committed or of the attorney general, to be tried therefor in the district where he resides, and upon such election and consent the district magistrate of the district in which the offense was committed shall transfer such case to the district magistrate of the district where he resides."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 575.**

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### ACT 48

A Bill for an Act Providing for Serving of Notice.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Wherever a state statute provides for the giving of notice or service of legal process by registered mail the sending of such notice or service of such legal process may be made by means of certified mail, return receipt requested and deliver to addressee only.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 585.**

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### ACT 49

A Bill for an Act Amending Chapter 309 of the Revised Laws of Hawaii 1955, Making the Transportation of any Female Person for Prostitution a Crime.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 309 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section to read as follows:

**Sec. 309- . Transportation for the purposes of prostitution.** Whoever knowingly transports any female person for the purpose of prostitution or with intent and purpose to induce, entice, or compel such female person to become a prostitute or to engage in prostitution shall be fined not more than \$1,000 or imprisoned not more than twenty years or both.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 661.**

## ACT 50

A Bill for an Act Authorizing the Supreme Court to Prescribe by General Rules the Practice and Procedure in Child and Family Proceedings and Authorizing the Supreme Court to Appoint a Child and Family Rules Committee and Fixing and Defining its Powers and Duties.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 214, Revised Laws of Hawaii 1955, is hereby amended by adding four new sections, to be numbered "214-22," "214-23," "214-24" and "214-25" and to read as follows:

**"Section 214-22. Rules relating to child and family procedure and practice.** The supreme court may from time to time prescribe by general rules, the pleading, practice and procedure with respect to any or all proceedings for all courts having jurisdiction of cases involving children and families and for all such other courts as the legislature shall hereafter establish having jurisdiction in such cases. Such rules shall be consistent with the State Constitution and shall not abridge, enlarge or modify the jurisdiction of any of the courts, other than juvenile courts or magistrates courts, or affect any statute of limitations. Such rules shall not abridge or modify the substantive rights under existing law of any child, parent or other person affected thereby but may deal with any or all proceedings directly affecting children and family relations, including but not limited to the following: juvenile, divorce, annulment of marriage, marital separation, relinquishment or termination of parental rights, adoption, guardianship of the person of a minor, establishment of paternity, reciprocal enforcement of support, and proceedings against persons who violate laws for the protection of children or for the support of dependents or who commit criminal offenses against children or against a spouse. The supreme court may, to the extent that it deems it advisable and practicable, use as a guide in the formulation of such rules, the Standard Family Court Act of 1959, as promulgated by the National Probation and Parole Association. Such rules may include the designation of any juvenile court existing under the provisions of Chapters 215 and 333, Revised Laws of Hawaii 1955, as a Family Court, and authorization for the hearing and determination of any of the classes of cases herein mentioned by referees, subject to the approval of a judge. Prior to the adoption, promulgation and publication of any general rule or any amendment thereof, except the general rules referred to in section 214-24, the supreme court shall provide for a public hearing at which all interested persons may appear, and at the time of the adoption, promulgation and publication of its general rules the supreme court shall fix the effective date thereof which shall not be less than six months from the date of the adoption thereof and may fix the extent to which they shall apply to proceedings then pending. The term 'child' as used herein shall mean any minor under twenty years of age.

**"Section 214-23. Child and Family procedural rules committee.** The supreme court may appoint a child and family procedural rules committee, a majority of the members of which shall have been admitted to practice before the supreme court, which shall assist the supreme court in the preparation, revision, promulgation, publication and administration of the general rules of child and family procedure.

**"Section 214-24. Rules for business of courts in child and family proceedings.** For the purpose of expediting any business of the courts in the State, in any matter which is not otherwise specifically regulated by law or by any of the general rules of child and family procedure, and for the purpose of facilitating a speedy and proper administration of justice for children and families, the supreme court may prescribe general rules for the conduct of all business of and practice in any of the courts of the State, which rules shall be effective as of the date fixed by the supreme court.

**"Section 214-25. Effect of rules.** All general rules made under the provisions of this subtitle shall, when promulgated, have the force and effect of law and shall supersede any statute in conflict therewith, PROVIDED, HOWEVER, and any provision herein contained to the contrary notwithstanding, all such rules shall apply only to procedure and shall have no effect whatsoever on substantive law."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 788.**

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## ACT 51

A Bill for an Act Authorizing George Shiro Tsuda to Sue the State of Hawaii for Alleged Damages to His Plants and Livestocks Caused by Alleged Trespass by the State or of its Officers, Employees or Agents.

WHEREAS, in the year 1950, George Shiro Tsuda alleges that he did suffer certain damages to his plants and livestock as a result of an alleged trespass on land leased by him; and

WHEREAS, it is alleged that the damages were caused by trespass by the State or its officers, employees or agents; now, therefore,

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. George Shiro Tsuda is hereby authorized to sue the State of Hawaii in an appropriate court of the State to recover damages which are allegedly due to the trespass by the State or its officers, employees or agents. For the purposes of this Act and the adjudication of any such claim, the immunity of the State to suit and the statute of limitations are hereby waived, and said George Shiro Tsuda may proceed against the State in any action, as in the case of any other defendant, subject to the same procedures and defenses except for the defense of immunity from suit and except that the statute of limitations shall be deemed to run for a period not to exceed two years from and after the effective date of this Act; provided, that nothing herein contained shall be construed as an admission of liability on the part of the State.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 994.**



**ACT 52**

A Bill for an Act Authorizing Edmund Theodore Renaud to Sue the State of Hawaii for Injuries Suffered by Him Which were Allegedly Caused by the Negligence or the Deliberately Tortious Act of the State or of its Officers, Employees, Agents or Wards.

WHEREAS, in the year 1945, Edmund Theodore Renaud did suffer certain injuries while on duty as a supervisor at the Waimano Home; and

WHEREAS, it is alleged that his injuries were caused by the negligence or the tortious act of the State or of its officers, employees, agents or wards; now, therefore,

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Edmund Theodore Renaud is hereby authorized to sue the State of Hawaii in an appropriate court of the State to recover damages which are allegedly due to the negligence or tortious act of the State or of its officers, employees, agents or wards. For the purpose of this Act and the adjudication of any such claim, the immunity of the State to suit is hereby waived, and said Edmund Theodore Renaud may proceed against the State in any action, as in the case of any other defendant, subject to the same procedures and defenses except for the defense of immunity from suit and except that the statute of limitations shall be deemed to run from and after the effective date of this Act; provided, that nothing herein contained shall be construed as an admission of liability on the part of the State.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1067.**

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**ACT 53**

A Bill for an Act to Amend Chapter 28 of the Revised Laws of Hawaii 1955, Relating to Soil Conservation Districts.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 28 of the Revised Laws of Hawaii is hereby amended by adding the words "and water" after the word "soil" and before the words "conservation district" or "conservation districts" wherever the words "soil conservation district" or "soil conservation districts" appear in said Chapter.

SECTION 2. The existing Soil Conservation Districts shall hereafter be known as "Soil and Water Conservation Districts."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1114.**

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**ACT 54**

A Bill for an Act Waiving the State Immunity to Suit, Statute of Limitations Against the State of Hawaii and the City and County of Honolulu and Requirement of Notice of Injuries to the City and County of Honolulu for the Claims of Sanford Blessing Saito, Deceased, and of Stanley Seiji

Saito and Helen Kepiki Saito, for Personal Injuries to and Death of Sanford Blessing Saito.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The immunity of the State of Hawaii to suit, the statute of limitations against the State and the City and County of Honolulu and the requirement of notice of injuries against the City and County of Honolulu are waived on the claims of Sanford Blessing Saito, deceased, and of his parents, Stanley Seiji Saito and Helen Kepiki Saito, for personal injuries sustained by said Sanford Blessing Saito on January 21, 1960, for the alleged negligence of the officers and employees of the State and the City and County of Honolulu at the McCully Recreation Center (formerly the McCully Japanese Language School) and for the subsequent death of said Sanford Blessing Saito.

SECTION 2. No claim presented by the legal representative of said Sanford Blessing Saito or by Stanley Seiji Saito and Helen Kepiki Saito shall be deemed a legally adjudicated claim within the contemplation of Section 1, unless it shall be found to be a valid legal claim by a court of competent jurisdiction in a final judgment against the State of Hawaii or the City and County of Honolulu or both the State of Hawaii and the City and County of Honolulu; provided, stipulations of fact, or of amicable compromise, or both, may be entered into by the parties involved in any action mentioned in this Act, and, if sufficient for that purpose, may be accepted by the court as the basis for the judgment required by this Act. Each government unit is authorized to pay its respective obligation as ordered by the court.

SECTION 3. The claimants shall commence action or suit in the appropriate circuit court of the State of Hawaii within two (2) years of the effective date of this Act.

SECTION 4. Nothing contained herein shall be construed as an admission of liability on the part of the State of Hawaii or the City and County of Honolulu.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1165.**

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## ACT 55

A Bill for an Act Amending Sections 9-45 and 1-56 of the Revised Laws of Hawaii 1955, as Amended, to Re-define the Kinds of Printing, Binding or Stationery Works that may be Performed Outside the State and to make the Printing of Session Laws and Supplements Subject to the Requirements of Chapter 9.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The first paragraph of section 9-45 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the words "charge usually and customarily made to private persons for work of similar character and quality, or that all bids submitted for such work or any part thereof are not reasonably competitive, such work" and substituting therefor the words "bid or charge of a mainland manufacturer of such item

by five per cent, such work or any part thereof so affected" so that the paragraph shall read as follows:

**"Section 9-45. Printing, binding and stationery work.** All printing, binding and stationery work for the State or any county, or other political subdivision thereof shall be performed within the State, and all requests for bids or contracts for such work shall so stipulate; provided that whenever it shall be established that any such work cannot be performed within the State or that the lowest price for which such work can be procured within the State exceeds the bid or charge of a mainland manufacturer of such item by five per cent, such work or any part thereof so affected may be performed outside the State."

SECTION 2. Section 1-56 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the semicolon and the words "; provided that all work under such contracts may be performed within or without Hawaii, or partly within and partly without Hawaii" so that the section shall read in full as follows:

**"Section 1-56. Printing; contracts.** The revisor shall cause sufficient copies of the session laws and supplements to be printed. The printing of such session laws and supplements shall be let under contracts pursuant to chapter 9. The completed volumes of the session laws and supplements shall be delivered to the lieutenant governor for distribution."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1253.**

## ACT 56

A Bill for an Act Amending Section 171A-23, Revised Laws of Hawaii 1955, as Amended, Relating to Collection Agencies.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 171A-23(a), Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new sentence following the last sentence of subsection (a) to read as follows:

"No licensee member shall have any interest, directly or indirectly, as owner, partner, officer, director, agent or stockholder of any collection agency in which another licensee member has such an interest."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1283.**

## ACT 57

A Bill for an Act Amending Section 258-36 of the Revised Laws of Hawaii 1955 Relating to Examination as to Sanity of Person Indicted for Felony.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 258-36 of the Revised Laws of Hawaii 1955 is hereby amended by amending the last sentence thereof to read as follows:

"The compensation of the physicians making such examination shall be such reasonable sums as are allowed and shall be paid by the State."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1345.**

**ACT 58**

A Bill for an Act Pertaining to Divorce, Amending Section 324-21 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 324-21 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding the following sentence thereto:

"An applicant who may be residing on any military or federal base, installation or reservation within the State shall not be barred from obtaining a divorce; provided however, in determining his two year residency next preceding his application, said applicant shall have proved his intention to establish legal residency in the State within the meaning of this section."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1961.) **H.B. 1375.**

**ACT 59**

A Bill for an Act to Amend Chapter 160, Part V, Revised Laws of Hawaii 1955, as Amended, Relating to the Licensing of Motor Vehicle Dealers and Salesmen.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 160, Part V, Revised Laws of Hawaii 1955, as amended, is hereby amended as follows:

1. By amending section 160-160 by deleting the entire fourteenth paragraph beginning with the word "Broker" and ending with the word "person", and the entire fifteenth paragraph beginning with the words "Broker's agent" and ending with the word "vehicles."

2. By amending the first sentence of section 160-161 to read as follows: "It shall be unlawful for any person, other than a new motor vehicle dealer, a used motor vehicle dealer, or a salesman, as defined in this part, duly licensed under this part, for compensation to engage in the business of selling or negotiating for the purchase of motor vehicles at wholesale or at retail within this State."

3. By amending the third sentence of section 160-162 to read as follows: "For the City and County of Honolulu, three of the members to be appointed shall be, or shall have been, engaged as dealers primarily in the sale of new motor vehicles, one of the members to be appointed shall be, or shall have been, engaged primarily in the sale of used motor vehicles, and one of the members to be appointed shall be solely and exclusively engaged as a salesman of new or used motor vehicles."

4. By deleting section 160-167.5 in its entirety.

5. By deleting section 160-167.55 in its entirety.

6. By amending section 160-167.555 as follows: (a) by deleting the words "and broker" appearing the title; and (b) by deleting from the first sentence beginning at line 6, the words, "or acts as a broker or agent in negotiating for the sale of a motor vehicle from or through such non-resident to a buyer in the Territory, then in such cases".

7. By amending section 160-167.6 as amended by Act 243 of the Session Laws of Hawaii 1959, by deleting therefrom, beginning at line 6, the words: "or acts as a broker or agent in negotiating for the sale of a motor vehicle from or through such non-resident to the buyer in the Territory, then in such event,".

8. By amending section 160-167.66 and section 160-167.666 by deleting the words "or broker" wherever the same appears therein.

9. By amending section 160-168 as amended by Act 243 of the Session Laws of Hawaii 1959, as follows: (a) by deleting the words "and broker" appearing in the title; (b) by deleting the words "or broker" wherever the same appears in subsections (a), (b) (2), (c) (1), (c) (3) and (d) thereof; and (c) by substituting the words "new motor vehicle dealers or used motor vehicle dealers," for the words: "new motor vehicle dealers, used motor vehicle dealers, or brokers" appearing in subsection (b) (1) thereof.

10. By deleting section 160-170.5 in its entirety.

11. By deleting section 160-170.55 in its entirety.

12. By amending section 160-170.555 by deleting the words "and brokers' agents" and "and broker's agent" wherever the same appears therein.

13. By amending section 160-171 as follows: (a) by amending the first sentence to read as follows: "The board shall prescribe the forms for licenses of automobile dealers and automobile salesmen and shall issue such license at the time it grants an application therefor"; (b) by deleting the words "and motor vehicle broker" and "and broker's agent" appearing in paragraph 3 thereof; (c) by amending paragraph 4 thereof to read as follows: "Dealers' and salesmen's licenses shall expire on June 30 of each year unless sooner terminated, suspended or revoked. A salesman's license shall terminate upon the termination of the license of the dealer by whom he is employed or upon his ceasing for any other reason to be employed by such dealer. A dealer's license shall terminate upon the cessation of the business for which it was issued. Upon the termination, suspension or revocation of a dealer's or salesman's license, the holder shall deliver it to the board. Where such termination is not the result of suspension or revocation by the board for cause, the board shall return the license to the holder without cost in the event of his resuming the business or employment for which it was originally issued prior to the expiration of the fiscal year for which it was issued. Prior to entering the employ of a dealer, other than the one for whose employ his license was issued, a salesman may apply to the board for an amended license authorizing such new employment. Unless good cause exists for refusal, the board shall issue such amended license for the period of the unexpired term of the original license and shall charge therefor a fee of \$1. Failure to obtain a properly amended license prior to commencing such new employment shall constitute grounds for refusal to issue an amended salesman's license or revocation of the license."; (d) By amending paragraph 5 thereof to read as follows: "No license issued under this part shall be transferable. Each dealer shall keep a license or a certified copy of a license posted in a conspicuous place in each place of business. Each salesman shall carry his license or a certified copy thereof and shall exhibit such license or certified copy thereof upon demand by any person with whom he seeks to transact business as a motor vehicle salesman. A license issued under this part shall authorize the doing of business thereunder only in the county in which the same has been issued."; and (e) by amending paragraph 7 thereof to

read as follows: "A copy of the application of each dealer duly executed and approved by the board and a report of the suspension, revocation or change of status of a dealer's license shall be furnished to the treasurer promptly upon the granting, suspension, revocation or change of status of any dealer's license."

14. By amending the first sentence of section 160-172 by deleting the words "or broker" therefrom.

15. By substituting the words "dealer's or salesman's license" for the words "dealer's, salesman's, broker's or broker's agent's license" wherever the same appear in the first sentence of section 160-173 and in the first sentence of subsection (b) of section 160-174.

16. By substituting the words "dealers and salesmen" for the words "dealers, salesmen, brokers and brokers' agents" and "salesmen, dealers, brokers' agents" appearing in section 160-185 and section 160-186, respectively.

SECTION 2. This Act shall take effect upon its approval; provided, however, that anything herein to the contrary notwithstanding, all brokers heretofore duly licensed under this chapter and actively engaged in such business, shall be entitled to continue to carry on such business, in accordance with and shall continue to be governed by, the terms and provisions of this chapter, as those terms and provisions existed prior to the passage of this Act.

(Approved May 16, 1961.) **H.B. 1266.**

## ACT 60

An Act Providing for Tax Exemptions.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 128-18, Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 128-18. Charitable, etc. purposes.** (a) There shall be exempt from real property taxes real property designated in subsection (b) or (c) and meeting the requirements stated therein, actually and (except as otherwise specifically provided) exclusively used for non-profit purposes. If an exemption is claimed under one of these subsections (b) or (c), an exemption for the same property may not also be claimed under the other of these subsections.

(b) The provisions of this subsection apply to property owned in fee simple, leased or rented for a period of one year or more, by the person using the property for the exempt purposes, hereinafter referred to as the person claiming the exemption. If the property for which exemption is claimed is leased or rented, the lease or rental agreement shall be in force and recorded in the bureau of conveyances.

Exemption is allowed by this subsection to the following property:

(1) Property used for school purposes including kindergartens, grade schools, junior high schools and high schools, which carry on a program of instruction meeting the requirements of the compulsory school attendance law, section 40-9, or which are for pre-school children who have attained or will attain the age of five years on or before December 31 of the school year, and junior colleges or colleges carrying on a general program of instruction of college level. The person claiming the exemption shall present with the claim a certificate issued by or under the authority of the depart-

ment of education that the requirements of the foregoing sentence have been met. The property exempt from taxation under this paragraph is limited to buildings for educational purposes (including dormitories), housing on the campus grounds for personnel employed at the school or college, campus and athletic grounds, and realty used for vocational purposes incident to the school or college.

(2) Property used for hospital and nursing home purposes, including housing for personnel employed at the hospital; in order to qualify under this paragraph the person claiming the exemption shall present with the claim a certificate issued by or under the authority of the department of health that the property for which the exemption is claimed consists in, or is a part of, hospital or nursing home facilities which are properly constituted under the law and maintained to serve, and which do serve the public.

(3) Property used for church purposes, including incidental activities, parsonages and church grounds, the property exempt from taxation being limited to realty exclusive of burying grounds (exemption for which may be claimed under paragraph (4)), and exclusive of any parsonage located at another site.

(4) Property used as cemeteries (excluding, however, property used for cremation purposes) maintained by a religious society, or by a corporation, association or trust organized for such purpose.

(5) Property dedicated to public use by the owner, which dedication has been accepted by the State or any county, reduced to writing and recorded in the bureau of conveyances; and property which has been set aside for public use and actually used therefor for a period not less than 5 years after enactment of this Act.

(6) Property owned by any nonprofit corporation, admission to membership of which is restricted by the corporate charter to members of a labor union, and property owned by any government employees' association or organization, one of the primary purposes of which is to improve the employment conditions of its members. Notwithstanding any provision in this section to the contrary, the exemption shall apply to property or any portion thereof which is leased, rented or otherwise let to another, if such leasing, renting or letting is to a nonprofit association, organization or corporation.

(c) The provisions of this subsection shall apply to property owned in fee simple by a corporation, society, association or trust having a charter or other enabling act or government instrument which contains a provision or has been construed by a court of competent jurisdiction as providing, that in the event of dissolution or termination of the corporation, society, association, or trust, or other cessation of use of the property for the exempt purpose, the real property shall be applied for another charitable purpose or shall be dedicated to the public. Exemption is allowed by this subsection for property, used for charitable purposes which are of a community, character building, social service or educational nature, including museums, libraries and art academies; provided that in order for property to be exempt from taxation under this subsection not more than seventy-five per cent of the income devoted to the exempt purposes may be derived from charges made to the public or to those accommodated or served.

(d) If any portion of the property which might otherwise be exempted under this section is used for commercial or other purposes not within the conditions necessary for exemption (including any use the primary purpose of which is to produce income even though such income is to be used for

or in furtherance of the exempt purposes) that portion of the premises shall not be exempt but the remaining portion of the premises shall not be deprived of the exemption if the remaining portion is used exclusively for purposes within the conditions necessary for exemption. In the event of an exemption of a portion of a building, the tax shall be assessed upon so much of the value of the building (including the land thereunder and the appurtenant premises) as the proportion of the floor space of the non-exempt portion bears to the total floor space of the building.

(e) The term 'for non-profit purposes,' as used in this section requires that no monetary gain or economic benefit inure to the person claiming the exemption, or any private share-holder, member or trust beneficiary. 'Monetary gain' includes without limitation any gain in the form of money or money's worth. 'Economic benefit' includes without limitation any benefit to a person in the course of his business, trade, occupation or employment."

SECTION 2. All real property which are specifically exempted from real property taxes pursuant to section 128-18, Revised Laws of Hawaii 1955, as amended, as it reads prior to the enactment of this Act shall continue to be exempted for a period of 5 years beginning January 1, 1962, so long as they maintain their status for which exemption was granted. Thereafter all such property must qualify for exemption under the provisions of this Act other than this section. Any of said specifically exempted real property which loses its exemption during the 5 year period shall qualify for a subsequent exemption under the provisions of this Act other than this section.

SECTION 3. Section 128-13, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

a. Item (1) of subsection (a) is amended to read as follows:

"Totally exempt where the value of the property is not in excess of \$1,500;"

b. The first clause of item (2) is hereby amended to read as follows:

"(2) Where the value of such property is in excess of \$1,500, according to the following schedule:

	<i>Value of Property</i>	<i>Exemption</i>
Over	\$1,500 to \$1,699	\$1,550
	1,700 to 1,899	1,650
	1,900 to 2,099	1,750
	2,100 to 2,299	1,850
	2,300 to 2,499	1,950
	2,500 to 2,699	2,050
	2,700 to 2,899	2,150
	2,900 to 3,099	2,250
	3,100 to 3,299	2,350
	3,300 to 3,499	2,450
	3,500 to 3,699	2,550
	3,700 to 3,899	2,650
	3,900 to 4,099	2,750
	4,100 to 4,299	2,850
	4,300 to 4,499	2,950
	4,500 to 4,699	3,050
	4,700 to 4,849	3,138
	4,850 to 4,899*	3,213
	5,000 and over	3,250

provided:"

\* So in original, no rate for \$4,900 to \$4,999.



ACT 61

SECTION 4. Chapter 128, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section to be numbered and to read as follows:

**"Sec. 128-12.5.** The director of taxation may promulgate rules and regulations as may be necessary to administer the provisions of sections 128-13 to 128-22."

SECTION 5. Section 128-19, Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 6. This Act, upon its approval, shall take effect as of January 1, 1962.

(Approved May 17, 1961.) **S.B. 164.**

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ACT 61

An Act to Provide for Executive Review of Bond Covenants.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 137-54 of the Revised Laws of Hawaii 1955 is hereby amended by changing the period at the end of the first sentence thereof to a semicolon and adding after the semicolon the following: "provided, that all such covenants shall be subject to review by the governor."

SECTION 2. Section 44-65 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by changing the period at the end of the first sentence thereof to a semicolon and adding after the semicolon the following:

"provided, that all such covenants shall be subject to review by the governor."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1961.) **S.B. 77.**

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ACT 62

An Act Relating to the Transfer of Certain State Prisoners to Federal Institutions.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 83, Part I, Revised Laws of Hawaii 1955, as amended, is hereby further amended by the addition of a new section to read as follows:

**"Section . Transfer of prisoner to federal institution.** The director of social services shall, with the approval of the governor, effect the transfer of a state prisoner to any federal correction institution for imprisonment, subsistence, care and proper employment of such a prisoner."

SECTION 2. This Act shall take effect upon approval.

(Approved May 17, 1961.) **S.B. 151.**

### ACT 63

An Act Relating to the Revision of Certain Accounting Procedures and Amending Chapter 34 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 34-28, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"For all moneys paid into the treasury there shall be prepared two receipts, one of which shall be signed for the money. The receipts shall be alike, excepting that upon the face of one of them shall appear the word 'original' and on the other the word 'duplicate'. Such receipts shall specify the amount and from what person or officer received and into what fund or what account deposited. On the duplicate copy of such receipt shall be entered a memorandum of the contents thereof and countersigned by the director of the budget, or his designee, after writing upon its face the day of its delivery to him, and the director, or his designee, shall deliver the duplicate receipt to the person or official paying the money into the treasury. The director of the budget shall retain the original receipt, charging himself with the amount specified therein, and crediting the fund or account named thereon. No such receipt shall be considered valid or binding as against the State, unless so countersigned as in this chapter provided."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 17, 1961.) S.B. 507.

### ACT 64

An Act Relating to the Marketing of Agricultural Products and Amending Section 22-1(d) of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 22 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

Section 22-1(d) is amended to read:

"(d) 'Agricultural Commodity' means fresh fruits and fresh vegetables of every kind and character, whether or not frozen or packed in ice, and coffee, whether cherry, parchment or green beans which have been produced in the State of Hawaii;"

SECTION 2. This Act shall take effect upon its approval.

(Approved May 17, 1961.) S.B. 906.

### ACT 65

A Bill for an Act to Permit Police Officers of Other Jurisdictions on Official Assignment to Carry Firearms Without Registration Requirements and Authorization to Enter into Compacts for Said Purpose.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 157-11 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the "period" at the end of subsection "(c)" and

substituting a "semi-colon" therefor and by adding a new subsection as follows:

"(d) To police officers on official assignment in Hawaii from any state which by compact permits police officers from Hawaii while on official assignment in such state to carry firearms without registration."

SECTION 2. The governor of the State of Hawaii or his duly authorized representative may enter into such compacts with other states to carry out the provisions of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 17, 1961.) **H.B. 663.**

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## ACT 66

An Act Providing for the Financial Responsibility of Common Carriers of Property for Property Being Transported.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. An appropriately numbered section shall be added to Chapter 104, Revised Laws of Hawaii 1955, pertaining to the Public Utilities Commission which shall provide as follows:

**"Sec. 104- . Liability of initial and delivering common carrier for loss; limitation of liability; notice and filing of claim.** Any common carrier receiving property for transportation from a point to Hawaii to a point in Hawaii shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage, or injury to such property caused by it or by any common carrier or transportation company to which such property may be delivered or over whose line or lines such property may pass when transported on a through bill of lading, and no contract, receipt, rule, regulation, or other limitation of any character whatsoever shall exempt such common carrier from the liability imposed; and any such common carrier so receiving property for transportation or any common carrier or transportation company delivering said property so received and transported shall be liable to the lawful holder of said receipt or bill of lading or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage, or injury to such property caused by it or by any such common carrier or transportation company to which such property may be delivered or over whose line or lines such property may pass when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule, regulation, or in any tariff filed with the public utilities commission; and any such limitation, without respect to the manner or form in which it is sought to be made is declared to be unlawful and void: provided, that if the loss, damage, or injury occurs while the property is in the custody of a carrier by water the liability of such carrier shall be determined by the bill of lading of the carrier by water and by and under the laws and regulations applicable to transportation by water, and the liability of the initial or delivering carrier shall be the same as that of such carrier by water: provided, however, that the provisions hereof respecting liability for full actual loss, damage, or injury, notwithstanding any limitation of

liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply, first, to baggage carried on passenger trains or boats, or trains or boats carrying passengers; second, to property, except ordinary livestock, received for transportation concerning which the carrier shall have been or shall be expressly authorized or required by order of the public utilities commission to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released, and any tariff schedule which may be filed with the public utilities commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the public utilities commission is empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinions, be just and reasonable under the circumstances and conditions surrounding the transportation, provided further, that nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: provided further, that it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than four months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: and provided further, that the liability imposed by this paragraph shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed as provided by the public utilities commission."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 22.**

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## ACT 67

An Act Amending Section 221-1 of the Revised Laws of Hawaii 1955 to Provide that Twenty Shall Be the Qualifying Age for Jury Service.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subparagraph (a) of Section 221-1 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the words "twenty-one" from line 2 of said subparagraph, and substituting the word "twenty" therefor.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 71.**

**ACT 68**

An Act Amending Section 5-72(d), Revised Laws of Hawaii 1955, as Amended, Exempting Harbor Board Pilots from Posting Work Schedules Two Weeks in Advance.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 5-72(d) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the last sentence thereof to read as follows:

"Work schedules for such agencies shall be posted at least two weeks in advance; provided, however, that this requirement shall not apply to the operations of pilots under the jurisdiction of the board of harbor commissioners."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 169.**

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**ACT 69**

An Act to Permit the Incorporation of Dental Service Corporations in the State of Hawaii.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 61-15 of the Revised Laws of Hawaii 1955 is amended by deleting the period from the first sentence thereof and inserting in lieu thereof a comma and adding after the comma the following:

"nor shall it apply to dental service corporations formed for the primary purpose of contracting with individuals, groups of individuals and corporations for defraying or assuming the cost of services of dentists and dental surgeons and of contracting on behalf of dentists and dental surgeons to furnish such services as provided in Chapter 172."

SECTION 2. Chapter 172 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto the following new section to be appropriately numbered:

"Sec. . A nonprofit dental service corporation may be formed for the purposes of contracting with individuals and corporations, both public and private, for defraying or assuming the costs of services of dentists and dental surgeons, and the contracting on behalf of dentists and dental surgeons to furnish such services. The treasurer shall grant to applicants who file a petition in conformity with the provisions of section 172-17, Revised Laws of Hawaii 1955, as amended, a charter of incorporation for the establishment and conduct of a dental service corporation; provided, however, that the corporation may not engage directly or indirectly in the performance of the corporate purposes or objects unless all of the following requirements are met:

(a) At least one-fourth ( $\frac{1}{4}$ ) of all licensed dentists and dental surgeons in this State became members of the corporation;

(b) Membership in the corporation and an opportunity to render professional services upon a uniform basis are available to all licensed dentists and dental surgeons in this State;

- (c) Voting by proxy and cumulative voting are prohibited; and
- (d) Certificates of compliance with the requirements of subdivisions (a), (b) and (c) has been issued to the corporation by the board of dental examiners.

Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to nonprofit corporations."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 897.**

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## ACT 70

An Act Making the Uniform Reciprocal Enforcement of Support Act Applicable Between the Various Counties of the State.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following section is hereby added to part I of chapter 329, Revised Laws of Hawaii 1955, as amended:

**"Sec. 329.5. Intercounty application.** The provisions of this chapter shall be applicable when both the complainant and the respondent are in this State but in different counties. If the court of the county in which the complaint is filed finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and finds that a court of another county in this State may obtain jurisdiction of the respondent or his property, the clerk of the court shall send three copies of the complaint and a certification of the findings to the court of the county in which the respondent or his property is found. The clerk of the court of the county receiving these copies shall notify the county attorney or corporation counsel of their receipt. The county attorney or corporation counsel and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the State as a responding state. The provision of section 329.26 requiring three certified copies of this chapter to be transmitted by the sending state to the responding state shall not apply when the provisions of this chapter are used by and/or between the counties of this State."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 941.**

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## ACT 71

An Act Relating to Public Assistance in Behalf of Children of Unemployed Parent or Parents.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to clarify the state law with respect to whether Hawaii can qualify for full federal aid to dependent children which it may be entitled to in the event that the Congress of the United States amends Title IV of the Social Security Act with respect to dependent children of unemployed parents.

SECTION 2. Subparagraph (c) of Section 108-34, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(c) Is deprived of parental support or suitable care by reason of the death, continued absence from home, physical or mental incapacity, unemployment, or cruelty, neglect or depravity on the part of a parent;"

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 946.**

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## ACT 72

A Bill for an Act Relating to Application to take Examination for License to Practice Medicine or Surgery.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection 64-3(d) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"(d)-(1) He is a graduate of a medical school or college approved by the council on medical education and hospitals of the American Medical Association; or

(2) He has actively practiced, either in some other jurisdiction, or in the United States army or navy or public health service, as a licensed physician of medicine or surgery for seven out of the eleven years immediately preceding the date of application to take such examination; or

(3) He is a graduate of a foreign medical school, who has had at least three years' medical experience or training in a hospital approved by the Council on Medical Education and Hospitals of the American Medical Association for internship or residency, and has passed the qualifying examination of The Educational Council for Foreign Medical Graduates or its successor."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **H.B. 967.**

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## ACT 73

A Bill for an Act Relating to the Regulation of Advertising Fresh Fruits, Fresh Vegetables and Coffee.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Definitions:** As used in this Act:

(a) "Department" means the department of agriculture and conservation;

(b) "Director" means director of the department of agriculture and conservation or his authorized agents;

(c) "Fresh fruits, fresh vegetables and coffee" means any fresh fruit, fresh vegetable and coffee for which standards have been promulgated by the department of economic development, whether imported or produced in the State of Hawaii.

SECTION 2. **Rules and Regulations.** To carry out and effectuate the purpose of this Act, the department is hereby authorized:

To establish, prescribe, modify or alter rules and regulations, which shall have the force and effect of law to control the advertisement of fresh fruits, fresh vegetables or coffee including requirement for specifying size, grade, geographic origin or quality, in conjunction with price. The department in establishing such rules and regulations shall consult with appropriate state and federal agencies and with any appropriate industry or trade organization. The rules and regulations for controlling advertising and requirements for specifying size, grade, geographic origin, or quality in conjunction with price shall be on the basis of what the department may deem best suited to the interest of the consumer, the producer and the public.

**SECTION 3. Duties of director; violations; proceedings; penalties.** The director shall enforce the provisions of this Act and any rules or regulations made by the department.

The following penalties and remedies shall apply in instances of violations of the provisions of this Act or of the rules and regulations issued by the department :

(a) Violation of this Act or of any rules or regulations issued thereunder is declared a public nuisance and may be enjoined or abated.

(b) Every person who violates any provisions of this Act or of any rule or regulation issued thereunder shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than five hundred dollars. Each day a violation continues shall constitute a separate offense.

The penalties and remedies prescribed in this Act shall be concurrent and alternative with any and all other civil, criminal or alternative rights, remedies or penalties provided by law.

**SECTION 4. Severability.** Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

**SECTION 5.** This Act shall take effect on July 1, 1961.

(Approved May 19, 1961.) **H.B. 1074.**

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## ACT 74

An Act Relating to Leave of Absence.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION .** Part II of Chapter 5 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section, to be appropriately numbered and to read as follows :

**“Sec. . Leave for employees to work at the state legislature.** Notwithstanding the limitations of any other law to the contrary, upon the request of any member of the legislature, for the services of any employee of the State or of any of its subdivisions or agencies, the governor of the State or the mayor or the chairman of the boards of supervisors or the chairman of an independent board or commission having charge of its own funds, may grant to any such employee a leave of absence in order to render service at



## ACT 75

the state legislature. Any employee granted such a leave of absence shall retain membership and all the benefits and rights of his permanent employment and in the employees' retirement system of the State as though he had remained in the service of the State, subdivision or agency thereof. Upon returning from the leave of absence the employee shall be reinstated to the position he left and shall be entitled to such compensation as he would have then been entitled had he remained in the service of the State, subdivision or agency thereof."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 253.**

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## ACT 75

An Act to Require Specific Authorization by the Legislature and the Governor for all Capital Improvements.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. All capital improvement projects requiring the use of general funds, special funds, general obligation bonds, and revenue bonds of the State shall require authorization by the legislature and the governor.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1961.) **S.B. 505.**

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## ACT 76

A Bill for an Act Relating to Public Lands Being Made Available to Persons Displaced by Natural Disaster and Amending Act 19, First State Legislature, Regular Session 1960 and Amending Act 4, First State Legislature, Special Session 1960.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend Act 19, First State Legislature, Regular Session 1960, Section 2, paragraph 3(b) by adding a new sentence at the end thereof, to wit:

"In the event this property is acquired by the Federal Housing Administration, pursuant to a contract of mortgage insurance, or is anyway acquired by the Small Business Administration, Federal National Mortgage Association, Veterans Administration, or any bank, or savings and loan institution chartered to do business in the State of Hawaii or by the federal government, this restriction shall be null and void during the period of such ownership and to this extent the board of land and natural resources is hereby authorized to waive any rights accruing to the State heretofore contained in any deed, land patent, sales agreement or lease made pursuant to this Act."

SECTION 2. Amend Act 19, First State Legislature, Regular Session 1960, Section 2, by deleting the words 'For a period of one year from the effective date of this Act' in lines 1 and 2, and substituting therefor the words, 'Up to September 1, 1961'.

SECTION 3. Amend Act 4, First State Legislature, Special Session 1960, Section 5, by deleting the period at the end thereof, and substituting in lieu

thereof a semi-colon, and adding the following words: "this provision to the contrary notwithstanding, the board may accept all applications filed under this Act up to September 1, 1961."

SECTION 4. Amend Act 4, First State Legislature, Special Session 1960, by amending Section 3, line 4 thereof, by deleting the word "residential" and inserting in lieu thereof, the words "the personal residences of said victims" and by inserting the word "for" between the words "or" and "agricultural".

SECTION 5. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **H.B. 1123.**

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## ACT 77

A Bill for an Act Amending Chapter 165A of the Revised Laws of Hawaii 1955, as Amended, Relating to Private Detectives, Investigators, and Watchmen.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 165A of the Revised Laws of Hawaii 1955, as amended, is hereby deleted and the following substituted therefor:

### **"CHAPTER 165A PRIVATE INVESTIGATORS**

**Section 165A-1. Definitions.** As used in this chapter:

(a) 'detective' means a private detective or investigator.

(b) 'guard' means a private guard, guard-patrolman, patrolman or watchman.

(c) 'board' means the board of detectives and guards described in section 165A-2.

**Section 165A-2. Board of private detectives and guards; appointment; qualifications; term.** Appointment and removal. There shall be a board consisting of four members, three of whom shall be nominated, and by and with the advice and consent of the senate, appointed by the governor. The terms of such members shall be for four years, provided that the governor may reduce the terms of those initially appointed so as to provide, as nearly as can be, for the expiration of an equal number of terms at intervals of one year. Each term shall commence on January 1 and expire on December 31. No person shall be appointed consecutively to more than two terms provided, that such membership shall not exceed eight consecutive years. The treasurer of the State of Hawaii shall be an ex officio non-voting fourth member of the board and may designate a representative to sit in his stead.

Of the three appointed members, one shall be the chief of police of any of the four counties, one shall be a private citizen not engaged in any of the licensed practices and one shall be a person actively engaged in any of the licensed practices.

The board shall examine applicants for a private detective or guard licenses, grant licenses, and revoke or suspend licenses of licensees who violate the provisions of this chapter.

**Section 165A-3. Policy and Standards.** It is the policy of this State to protect the general public from unlawful and unethical conduct and operation of the business of private detectives and guards. The board may adopt, amend or repeal rules and regulations, which shall have the force and effect of law, relating to qualifications for licensing of private detectives and guards, to the conduct and operation of the businesses of such license, and to the revocation or suspension for cause of such licenses. The board shall consult with appropriate state and federal agencies and any appropriate industry or trade organization in establishing such rules and regulations. The rules and regulations so established shall be on the basis of what the board may deem best suited to the public interest.

**Section 165A-4. Procedure in revocation or suspension of licenses.**

(a) Actions to revoke or suspend licenses granted under the provisions of this chapter shall be commenced by verified signed complaints.

(b) A copy of the complaint and an order to show cause why the accused's license should not be subjected to disciplinary action shall be served by certified mail to the accused's last known business address.

(c) The accused shall be given thirty days from the date of mailing such notice in which to answer.

(d) Any licensee whose license has been revoked or suspended may file an appeal to the circuit courts, and his license shall remain in force pending the determination by the circuit court of his appeal.

(e) Prosecution of such actions shall be conducted by the department of the attorney general.

**Section 165A-5. Private detectives, guards and agencies; license required.**

No person shall engage in the business of private detective or guard, represent himself to be, hold himself out as, list himself or advertise as a private detective or guard or as furnishing detective investigating services or guard services without first obtaining a license as a private detective or guard from the board upon payment of a licensing fee of \$25 per annum and no corporation, partnership or association shall engage in the business of private detective or guard, represent itself to be, hold itself out as, list itself or advertise as a private detective or guard agency or bureau or as furnishing detective, investigating or guard services without first obtaining a license as a private detective or guard agency from the board upon payment of a licensing fee of \$25 per annum.

**Section 165A-6. Private detective; qualifications for license.** The board may grant a private detective license to any suitable citizen of the United States and to any suitable corporation, partnership or association making written application therefor. The applicant, if an individual, or the principal detective of a corporation shall be not less than twenty-five years of age and of good moral character, shall have a high school education or its equivalent and shall have had experience reasonably equivalent to at least four years of full-time investigational work. Any licensee may employ as many agents, operatives and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal detective if a corporation is the employer, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude. Employees shall have had eighth grade education or its equivalent.

**Section 165A-7. Guard License required.** No person, firm, partnership or corporation shall engage in the business of guard for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent himself or itself to be, or hold itself out as such without first obtaining a license as a guard or guard agency from the board upon payment of a licensing fee of \$25 per annum.

**Section 165A-8. Guard; qualifications for license.** The board may grant a guard or a guard agency license to any suitable citizen of the United States and to any suitable corporation, partnership or association making written application therefor. The applicant, if an individual, or the principal guard in the case of a corporation, shall be not less than twenty-five years of age and of good moral character, shall have a high school education or its equivalent and shall have had experience reasonably equivalent to at least four years of full-time guard work. Any licensee may employ as many agents, operatives and assistants as he deems necessary for the conduct of his business, provided such licensee, or the principal guard if the employer is a corporation, shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the licensee's business and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude. Employees shall have had an eighth grade education or its equivalent.

**Section 165A-9. Form of application for license.** Application for such license shall be made under oath on a form to be furnished by the board, which form may require a statement of the applicant's full name, age, date and place of birth, residence and business address, the business or occupation the applicant has engaged in for ten years immediately preceding the date of the filing of the application with names and addresses of employers, the date and place of any conviction of a felony or of any offense involving moral turpitude, and such information, including fingerprints of the applicant and such other information as the board may require to investigate the character, competency and integrity of the applicant. The application shall be accompanied by affidavits of three reputable citizens of the State residing in the locality where the applicant proposes to conduct his business, stating that the applicant is a person of good moral character.

**Section 165A-10. Licenses and renewal of licenses.** The license shall state the name and address of the principal office or place of business of the licensee, the name under which the licensed business is to be conducted, and the name of the principal detective or guard, if the licensee is a corporation.

The holder of a license issued by the board who continues in active practice shall annually renew his license and pay the renewal fee not later than June 30th.

**Section 165A-11. Association with government not to be implied.** No licensee shall use any designation or trade name which implies any association with any municipal, county, state or territorial government or the federal government, or any agency thereof; nor shall a licensee or employee of any licensee wear any badge or uniform capable of being associated with the badge or uniform of any government law enforcement organization.

**Section 165A-12. Bond.** Each licensee, individual or corporate, shall give to the board a bond in the sum of not less than \$5,000 executed by the applicant as principal and by a surety company authorized to do business in the

State as surety. The bond shall be in such form as the board may prescribe, conditioned upon the honest conduct of the business of the licensee, and the right of any person injured by the wilful, malicious or wrongful act of the licensee to bring in his own name an action on the bond.

**Section 165A-13. Exemptions.** The provisions of this chapter shall not apply to any person, firm, company, partnership or corporation or any bureau or agency whose business is exclusively the furnishing of information as to the business and financial standing and credit responsibility of persons, firms, or corporations, or as to personal habits and financial responsibility, of applicants for insurance, indemnity bonds or commercial credit, or a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, or an attorney at law in performing his duties as such attorney at law.

**Section 165A-14. Contingent fee.** Compensation for services of detectives or guards shall not be based upon promissory notes or property other than that allegedly stolen which have been obtained from suspects or others in their behalf as restitution.

**Section 165A-15. Penalties.** Any employee or former employee of a licensee who divulges any information gained by him in the course of such employment except as his employer directs or as required by law, or who wilfully makes a false report to his employer, shall be fined not more than \$100 or imprisoned not more than six months or both. Any person who violates any other provision of this chapter or any rule or regulation adopted by the board under this chapter shall be fined not more than \$500 or imprisoned not more than one year or both.

**Section 165A-16. Disposition of funds.** All moneys collected by the board shall be paid to the department of treasury and regulation and shall be deposited with the state director of budget and review to the credit of the general fund of the State."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **H.B. 1304.**

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## ACT 78

An Act Relating to the Disposition of Ballots, and Amending Sections 11-69 and 11-194 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-69 of the Revised Laws of Hawaii 1955 is hereby amended by amending the last paragraph thereof to read as follows:

"The ballots may be destroyed by the lieutenant governor when all elected candidates have been qualified, sworn and seated. The other election records shall at the same time be opened and filed in the office of the lieutenant governor."

SECTION 2. Section 11-194 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto the following paragraph:

"Upon receipt of the statement of canvass or other records required to be kept and the voting machine and its keys, the lieutenant governor or the

clerk in the presence of any circuit court judge shall break the seal on said machine and shall compare the seal number, protective counter number and counter numbers against the numbers found on the statement of canvass or other record forms. If the information found on the statement canvass or record form coincides with the information found in the machine or if there are any discrepancies between the statement of canvass or record form and the information found in the machine, the circuit court judge and the lieutenant governor or the clerk shall note that fact on said statement of canvass or other record form. The ballot may then be removed from the machine and the ballot together with the statement of canvass or other record form shall then be sealed in a packet and kept and destroyed in the manner provided for in section 11-69 of the Revised Laws of Hawaii 1955. The voting machine may then be prepared and used in any succeeding primary, general or special election in the manner provided for in this chapter."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 43.**

## ACT 79

An Act Relating to Fish Traps and Repealing Section 21-60 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 21-60 of the Revised Laws of Hawaii 1955, as amended, is hereby repealed in its entirety.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 52.**

## ACT 80

An Act Relating to Minimum Sizes of Nets and Traps, and Amending Section 21-62 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 21-62 of the Revised Laws of Hawaii 1955 is hereby amended by rephrasing provisions (c) and (d) thereof to read as follows:

"(c) Commercial fishermen who hold a license issued under section 21-78 may use nets of smaller mesh to take nehu, iao, marquesan sardine or any other species for which an open season may be declared by the board of agriculture and conservation for use as bait, and (d) all persons may use nets of smaller mesh to take shrimp or opae, opelu, makiawa or mikiawa; and provided, further, that in the taking of akule a net with mesh of not less than one and one-half inches may be used."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 53.**

**ACT 81**

An Act Amending Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection (b) of Section 93-7, Revised Laws of Hawaii 1955, is hereby amended to read:

"(b) Domestic service in a private home, local college club or local chapter of a college fraternity or sorority performed in any calendar quarter by an individual if the cash remuneration paid by an employing unit for such service is less than \$225.00."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 122.**

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**ACT 82**

An Act Relating to Residence Requirement for Public Employment.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend section 5-1 of the Revised Laws of Hawaii 1955, as amended, by adding a new subsection after subsection (d) to read:

"(e) The foregoing requirement of three years' residence shall not apply to any citizen of the United States who: (1) was a resident of the State of Hawaii immediately before attending a school in another state and returned to the State of Hawaii within three years after termination of his education; or (2) was a female resident of the State of Hawaii immediately before attending a school in another state, got married to a non-resident of the State of Hawaii while attending school and returned to the State of Hawaii within three years after termination of her education; or (3) is a female resident who marries a non-resident and continues to reside in the State of Hawaii."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 136.**

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**ACT 83**

An Act Relating to Certain Appropriations for Capital Improvements and the Lapsing Thereof.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. General obligation bond fund authorizations and balances of such authorizations made by Act 401, SLH 1949, as amended; Act 55, SSLH 1949, as amended; Act 211, SLH 1953, as amended; Act 280, SLH 1953, as amended; Act 273, SLH 1955, as amended; Act 150, SLH 1957, as amended; Act 224, SLH 1959, as amended; and Acts 22 and 23, SSLH 1959, for which bonds have not been issued shall lapse on the effective date of this Act.

SECTION 2. If any appropriation or balance of appropriation as listed in Section 1 of this Act is changed because of an increase or decrease in

allotment prior to passage of this Act, the appropriation or balance of appropriation shall be adjusted by the amount of the change in allotment prior to lapsing.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 140.**

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## ACT 84

An Act Amending Section 155-105, Revised Laws of Hawaii, 1955 Relating to Bail Bond.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 155-105 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Section 155-105. Limit of compensation.** The amount of compensation which may be collected on any bail bond or bond to keep the peace by one or more persons acting as sureties thereon shall not exceed ten per cent of the amount thereof but need not be less than \$10 in any event."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 618.**

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## ACT 85

An Act to Amend Section 83-75 of the Revised Laws of Hawaii 1955, as Amended, Relating to Interstate Parole and Probation Compacts.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The first paragraph appearing in lines 1-15 in section 83-75 of the Revised Laws of Hawaii 1955, as amended (1960 Supplement), is hereby amended to read as follows:

**"Section 83-75. Authorization; form of compact.** The governor of the state is hereby authorized and requested to execute compacts on behalf of the State of Hawaii with other states of the United States in accordance with the provisions herein. For the purpose of this section, the term "states of the United States" shall mean the states in the Union, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia. The form of each such compact shall be substantially as follows:

### "A COMPACT

'Entered into by and among the contracting states, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled "An Act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes." ' "

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 723.**



ACT 86

An Act Relating to the Land Court and Bureau of Conveyances and Amending Sections 342-57 and 343-21, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-57, Revised Laws of Hawaii 1955, is hereby amended by adding the following sentence to the end of the first paragraph: "The assistant registrar is authorized and shall note upon all documents filed concurrently with the recorded instrument the document number and the certificate of title number in the spaces provided therefor wherever required."

SECTION 2. Section 343-21, Revised Laws of Hawaii 1955, is hereby amended by adding after the first paragraph the following sentence: "The registrar, his deputy or clerk is authorized and shall note upon all documents filed concurrently with the recorded instrument the liber and page of the recorded instrument in the spaces provided therefor wherever required."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 22, 1961.) **S.B. 1097.**

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ACT 87

An Act Amending Section 5-44 and Section 5-45 of the Revised Laws of Hawaii 1955, as Amended, Relating to Leave of Officers and Employees on Loan to Other Governments.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 5-44 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Section 5-44. Leave for officers or employees on loan to other governments; retention of rights.** Notwithstanding the limitations of any other law to the contrary, upon the request of the governor of American Samoa, the governor of Guam, or the High Commissioner of the Trust Territory, the Federal Government by any of its duly authorized representatives or agencies, or the United Nations by its duly authorized official or representative, for the services on a loan basis of any particular officer or employee of the State of Hawaii, or of any of the counties, the governor of the State of Hawaii, or the mayor of the city and county of Honolulu, or the chairman of the board of supervisors of any of the other counties or the chairman of an independent board or commission having charge of its own funds, may grant to any such officer or employee who desires to participate in any such employment loan program and who has submitted a written application therefor, a leave of absence to be employed by such requesting government for a period not to exceed two years. Such officer or employee, while serving such other government on a loan basis during his leave of absence, shall retain membership and all rights in the classified service and in the employees' retirement system of the State of Hawaii as though he had remained in the service of the State or of any county thereunder, provided, that he return to his former position within ninety days after the termination of his contract with such other government. Upon his return from the loan to state or

county employment, as the case may be, he shall be reinstated to the position he left and shall be entitled to such compensation as he would have then been entitled had he remained in the service of the State or any county thereunder.

"No officer or employee participating in such loan program shall hold the State of Hawaii or any of the counties under the State liable for any compensation for work performed for another government while on loan from the state during such leave of absence, nor for any transportation costs incurred in proceeding to and returning from the loan employment destination."

SECTION 2. Section 5-45 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new sentence, at the end thereof, reading as follows:

"The term 'employee,' wherever it appears in this section, includes the holder of an appointive office."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 42.**

## ACT 88

An Act Amending Chapter 111, Revised Laws of Hawaii 1955, Relating to Outdoor Advertising Along Highways Within the State of Hawaii which are a Part of the National System of Interstate and Defense Highways.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 111, Revised Laws of Hawaii 1955, is hereby amended by adding a new section to be numbered and to read as follows:

**"Sec. 111- . Outdoor Advertising.** No person shall erect or maintain any billboard or outdoor advertising as defined in Chapter 154 within six hundred sixty feet of the right-of-way boundary and visible from the main-traveled way of any highway within the State of Hawaii which is a part of the National System of Interstate and Defense Highways, except official traffic signs, signs advertising the sale or lease of land upon which they are located, signs advertising business or activity on the premises, and signs designed to give information in the interest of the traveling public.

The director of transportation is authorized to establish rules and regulations consistent with standards set out by the federal government relating to the size, type, spacing, location and color of signs excepted by this section. Such rules and regulations shall be promulgated pursuant to law and shall have the force and effect of law. Any person violating this section shall be fined not less than \$25 nor more than \$500, or imprisoned not more than one month, or both."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 170.**

### ACT 89

An Act to Amend Section 159-30, Revised Laws of Hawaii 1955, as Amended, Relating to the Quantities of Liquor Authorized for Sale by Retail Dealers.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-30, Revised Laws of Hawaii 1955, as amended, is further amended by amending Class 4 of said section to read as follows:

"Class 4. Retail Dealers' Licenses. A license to sell liquors at retail shall authorize the licensee to sell the liquors therein specified in their original packages. Under such license no liquor shall be consumed on the premises except as authorized by the commission. Of this class there shall be the following kinds: (a) general (includes all liquors except alcohol); (b) beer and wine; (c) alcohol."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 200.**

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### ACT 90

An Act to Amend Section 159-30, Revised Laws of Hawaii 1955, as Amended, Relating to Special License for the Sale of Beer.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-30, Revised Laws of Hawaii 1955, as amended, is further amended by amending Class 9 of said section to read as follows:

"Class 9. Special. A special license may be granted for the sale of beer for a period not to exceed three days on any occasion and under such conditions as may be approved by the commission."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 202.**

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### ACT 91

An Act to Amend Section 159-1, Revised Laws of Hawaii 1955, as Amended, Relating to Definitions.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-1, Revised Laws of Hawaii 1955, as amended, is further amended by adding after the sentence defining the words "sell or to sell" a new sentence to read as follows:

"Notwithstanding the provisions above, the delivery of liquor by a licensee's vehicle or the vehicle of a licensee's agent shall be deemed delivery for value."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 205.**

## ACT 92

An Act to Amend Section 159-16 (g), Revised Laws of Hawaii 1955, Relating to Fixing the Hours of Licensed Premises.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 159-16 (g), Revised Laws of Hawaii 1955, is hereby amended by deleting the proviso beginning in line 5 after the word "respectively."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 206.**

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## ACT 93

An Act Relating to Nonprofit Corporations and Amending Chapter 172, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 172-16, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Section 172-16. Nonprofit corporations; charter grant of.** The treasurer shall grant to all applicants who file petitions in conformity with the provisions of Section 172-17, charters of incorporation for the establishment and conduct of any lawful purpose, except the carrying on of a business, trade, avocation or profession for profit. Any charter granted or corporation created under authority of this section shall be subject to all general laws enacted in regard to corporations, and shall file with the treasurer within thirty days after adoption a certified copy of its bylaws, and any amendments or changes therein, and shall also file from time to time, whenever changes occur, the names and addresses of the officers of the corporation."

SECTION 2. Section 172-17, Revised Laws of Hawaii 1955, as amended by Act 186, Session Laws of Hawaii 1957, is hereby amended to read as follows:

**"Section 172-17. Petition for charter; contents of charter.** Any number of persons not less than three, a majority of whom are residents of the State, desiring to obtain a charter of incorporation for the purposes set forth in section 172-16, shall sign, verify and file a petition with the treasurer. The petition shall be accompanied by the proposed form of charter of incorporation which shall contain the following particulars:

- (a) The name of the corporation;
- (b) The location of the proposed corporation and the specific address of its initial office;
- (c) The purpose or purposes for which the corporation is organized;
- (d) The period of duration, which may be perpetual;
- (e) The number, names and residence addresses of the initial officers and directors, or similar officers;
- (f) Any provision, not inconsistent with law, which the petitioners elect to set forth in the charter of incorporation for the regulation of the internal affairs of the corporation, including any provision for the distribution of assets on dissolution or final liquidation;

(g) That the corporation is not organized for profit and that it will not issue any stock, and no part of its assets, income or earnings shall be distributed to its members, directors, or officers, except for services actually rendered to the corporation, and except upon liquidation of its property in case of corporate dissolution.

It shall not be necessary to set forth in the proposed charter any of the powers enumerated in section 172-23. If the petition or the proposed charter presented to the treasurer is not in conformity with the requirements of this section, the treasurer shall, within fifteen days, return the same to the petitioners specifying where in the same fails to conform with this section and the petitioners may amend the petition and present the same so amended."

SECTION 3. Section 172-18, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Section 172-18. Powers prohibited for non-profit corporations.** No corporation shall have or issue shares of stock and no dividends shall be paid and no part of its income of a corporation shall be distributed to its members, directors, or officers, except upon the liquidation of the property of a corporation in case of corporate dissolution. A corporation may pay compensation in a reasonable amount to its members, directors, or officers for services rendered, and may confer benefits upon its members in conformity with its purposes. No loans shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof."

SECTION 4. Section 172-19, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the phrase "by and with the consent of the governor" appearing in the last line of the first paragraph of this section.

SECTION 5. Section 172-20, Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the phrase "by and with the consent of the governor" from paragraph (c).

SECTION 6. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 297.**

## ACT 94

An Act to Enable Unemployed Individuals to Remain Eligible for Unemployment Compensation Benefits even Though Unavailable for Work Because of Illness or Disability; and Amending Section 93-23 (c) of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 93-28(c) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"(c) Availability. He is able to work and is available for work; provided, that no claimant shall be considered ineligible with respect to any week of unemployment for failure to comply with the provisions of this subsection if such failure is due to an illness or disability, as evidenced by a physician's certificate, which occurs during an uninterrupted period of unemployment with respect to which benefits are claimed and no work which would have

been suitable prior to the beginning of such illness and disability has been offered the claimant; and provided further, that any claimant who because of marital obligations or approaching marriage, has voluntarily left work for an indefinite period, to engage in the occupation of a homemaker, shall be considered unavailable for work until availability for work is shown by some evidence in addition to registration for work and statement of availability, such as (but not limited to) the fact that the conditions which led to leaving work have terminated; or arrangements have been made for the care of the household by others; or conditions require the claimants' contribution to the economic support of the household; or the claimant has had some work or made efforts to secure work."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 298.**

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### ACT 95

An Act to Amend Section 205-4, Revised Laws of Hawaii 1955, Relating to Markup on Cost.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 205-4, Revised Laws of Hawaii 1955, is hereby amended by deleting the period from the end of the second paragraph and substituting a semi-colon therefor and adding the following words:

"provided further, that taxes passed on to a purchaser as a separate item from the price of merchandise shall be included in the advertised price or offer of sale of such merchandise if such taxes are used to compute the markup of six per cent as provided herein."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 718.**

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### ACT 96

An Act Relating to Corporations and Amending Chapter 172 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 172-10 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 172-10. Creation by articles of incorporation.** Any number of persons not less than three desiring to form a corporation shall execute articles of incorporation and acknowledge the same before any officer authorized to take acknowledgments, which articles shall contain the following particulars:

(a) The name of the corporation, which shall include as the last word thereof the word 'limited,' 'incorporated' or 'corporation' or the abbreviation 'Ltd.,' 'inc.' or 'corp.';

(b) The place of its principal office in Hawaii and also the street or mailing address of the initial office;

- (c) The purposes and powers of the corporation;
- (d) The number of shares of each class of stock that the corporation is authorized to issue, the aggregate par value, if any, of each class of stock, and the par value of each share or that the shares are without par value; and, if the privilege of subsequent extension of the authorized capital stock is reserved, the limit of such extension;
- (e) The number of directors, which shall be not less than three, and the names and street or mailing addresses of the initial officers and directors;
- (f) If the corporation is to issue initially more than one class of stock, the preferences, privileges, powers, rights, and qualifications of the shares other than common shares having full voting rights;
- (g) Any other lawful provisions which may be desired by the corporation for the purpose of defining, limiting or regulating the powers of the corporation and the powers and duties of its board of directors."

SECTION 2. Section 172-12 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 172-12. Articles of incorporation, charters, amendments, recorded where.** The articles of incorporation and charters, and any subsequent amendments thereto, shall be filed with the treasurer of the State and, if in compliance with the statutory requirements, shall be accepted for record and shall thereafter be open to inspection of the public during business hours."

SECTION 3. Section 172-117 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 172-117. Fees; amount.** The following fees shall be paid to the treasurer upon the filing of corporate documents:

- (a) Articles of incorporation and affidavit of incorporation—20 cents per \$1,000 authorized capital, \$50 minimum, \$1,000 maximum;
- (b) Supplemental or amended affidavit—\$10;
- (c) Certificate of increase of authorized capital stock—20 cents per \$1,000 authorized capital increase, \$20 minimum, \$1,000 maximum;
- (d) Certificate of renewal or extension of corporate existence—same as the filing of articles of incorporation;
- (e) Certificate of reduction of capital stock—\$15;
- (f) Certificate of amendment of articles of incorporation—\$10;
- (g) Agreement of merger or consolidation—\$50;
- (h) Annual corporation exhibit—\$10;
- (i) Certificate of dissolution—\$5;
- (j) Resolution of issuance of preferred stock—\$10;
- (k) Certification—10¢ per page or any portion thereof.
- (l) Petition and charter of incorporation of nonprofit corporation—\$10;
- (m) Certificate of amendment and renewal or extension of charter of nonprofit corporation—\$5;
- (n) Articles of incorporation of agricultural and fishing cooperatives without capital stock—\$15."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 862.**

## ACT 97

An Act Relating to Activities of Notaries Public in Respect of Banks, Trust Companies and Corporations and Amending Chapters 168 and 178 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 168 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section thereto, to be appropriately numbered, and to read as follows:

**"Section . Notary connected with a corporation or trust company; authority to act.** It shall be lawful for any notary public, although an officer, employee, shareholder or director of a corporation and trust company to take the acknowledgment of any party to any written instrument executed to or by the corporation or trust company, or to administer an oath to any shareholder, director, officer, employee or agent of the corporation or trust company, or to protest for nonacceptance or nonpayment of bills of exchange, draft, checks, notes and other negotiable instruments which may be owned or held for collection by the corporation or trust company; provided, it shall be unlawful for any notary public to take the acknowledgment of any party to an instrument, or to protest any negotiable instrument, where the notary is individually a party to the instrument."

SECTION 2. Chapter 178 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending Section 178-41 to read as follows:

**"Section 178-41. Notary connected with bank; authority to act.** It shall be lawful for any notary public, although an officer, employee, shareholder or director of a bank, to take the acknowledgment of any party to any written instrument executed to or by the bank, or to administer an oath to any shareholder, director, officer, employee or agent of the bank, or to protest for nonacceptance or nonpayment of bills of exchange, draft, checks, notes and other negotiable instruments which may be owned or held for collection by the bank; provided, it shall be unlawful for any notary public to take the acknowledgment of any party to an instrument, or to protest any negotiable instrument, where the notary is individually a party to the instrument."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 1961.) S.B. 913.

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## ACT 98

An Act Relating to Opinions of the Attorney General.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 30-3 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 30-3. Gives opinions.** He shall, when requested, give his opinions upon questions of law submitted to him by the governor, the legislature, or its members, or the head of any department. He shall file a copy of each such opinion with the lieutenant governor, the public archives, the supreme



## ACT 99

court library, and the legislative reference bureau within three days of the date it is issued. Opinions on file with the lieutenant governor, the public archives, and the supreme court library shall be available for public inspection. The legislative reference bureau shall furnish the members of the legislature at least four times each year, with a list of the most recent opinions filed with the bureau."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 953.**

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## ACT 99

An Act Amending Section 97-26(a) of Chapter 97, Revised Laws of Hawaii 1955, as Amended, (Hawaii Workmen's Compensation Law) to Provide for Disfigurement Compensation Payments for Disfigurement Resulting from Medical, Surgical or Hospital Treatment.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The paragraph entitled "Disfigurement" in Section 97-26 (a), Revised Laws of Hawaii 1955, as amended, shall be amended by adding a new sentence thereto as follows:

"Disfigurement shall be deemed to include any scarring or other disfigurement resulting from medical, surgical or hospital treatment furnished the employee."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 1020.**

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## ACT 100

An Act Amending Chapter 221 of the Revised Laws of Hawaii 1955, as Amended, Relating to Jurors.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 221 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(1) By amending section 221-4 thereof to read as follows:

**"Section 221-4. Excused when.** A juror shall not be excused by a court for slight or trivial cause, but only when it appears that jury duty would entail a serious hardship to his business or to the business of his employer, or that his health or the welfare or health of a member of his family requires his absence, or that for other good cause he should be excused either temporarily or for the balance of the term."

(2) By amending section 221-5 thereof to read as follows:

"If a person who is exempt under the provisions of section 221-3 from liability to act as a juror, or who believes himself to be entitled to be excused from jury duty under the provisions of section 221-4, is summoned as a juror, he may make and transmit his written request for exemption or excuse to the clerk of the court for which he is summoned, stating his office, occupation or employment, and his reason for claiming exemption under section 221-3, or for being entitled to be excused under the provisions of section

221-4. Such written request shall be delivered by the clerk to the judge of the court when the name of such person is called, and if sufficient in substance, shall be received as an excuse for nonattendance in person. The written request shall then be filed by the clerk."

(3) By amending section 221-10 thereof, as amended, by deleting the first and second paragraphs thereof, and substituting therefor the following wording:

"Every year the jury commission of each circuit shall make and, at least ten days prior to the court term, file with the clerk of its circuit court, a certified list of the names and addresses of fifty citizens selected to be subject to serve as grand jurors during the ensuing year.

At the same time the jury commission of each circuit shall likewise file a separate certified list of the names and addresses of citizens selected to be subject to serve as trial jurors during the ensuing year, the numbers thereof for each circuit to be as follows: First circuit, three thousand, third circuit, five hundred, second and fifth circuits, four hundred.

However, if the jury commission of any circuit is not able to select the above designated number of citizens subject to be trial jurors, it shall so report to its circuit court and, with the approval of the judge or administrative judge of said court, shall select and list the highest number thereof which it deems practicable.

All such citizens so selected shall be persons whom the respective commissions believe, after careful investigation in each case, to be qualified under section 221-1, and not exempt under section 221-3; provided that any such person who is exempt under section 221-3 may be selected if he waives his exemption. All such selections shall be made without reference to sex, political affiliations, race, or place of nativity of citizens, with a view to obtain lists representative of the qualified citizenry of each circuit."

(4) By adding a new section to said Chapter, to be numbered 221-26, to read as follows:

**"Section 221-26. Use of electronic and/or electro-mechanical devices for drawing grand and trial juries.** The jury commissioners are authorized to make their selections of citizens who shall be subject to grand and trial jury duty by means of electronic and/or electro-mechanical devices commonly designated as data processing machines such as punch cards, electronic tape, random access files and other solid state devices when the same are available for their use.

In any judicial circuit where such data processing equipment, devices, or cards are being so used, the appropriate judge may order that such aforementioned equipment, devices or cards or some of them, be used in the drawing of grand and trial jury panels, in lieu of pieces of paper and jury boxes as otherwise provided in this chapter. In such case the said judge shall direct the manner of use of such aforementioned equipment, devices or cards so as to provide for impartial drawings of the names of the persons to constitute the said jury panels and for the preparation of the lists of the names so drawn."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) S.B. 1087.

**ACT 101**

A Bill for an Act Relating to the Catching or Taking of Nehu, Iao or Marquesan Sardine, and Amending Section 21-78 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The first sentence of paragraph 1 of Section 21-78 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows :

“Except as hereinafter provided, it shall be unlawful for any person to fish for, catch or take in or from any of the waters within the jurisdiction of the State any nehu, iao or Marquesan sardine ; provided, that any person may lawfully catch nehu for family consumption with a net not longer than twenty-five feet ; and provided further, that the board of agriculture and conservation may issue to commercial fishermen as defined in section 21-110 licenses to take nehu, iao, Marquesan sardine or any other species for which an open season may be declared by the board for use as bait.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **H.B. 257.**

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**ACT 102**

A Bill for an Act Enacting a Retail Installment Sales Act and Repealing the Uniform Conditional Sales Act (Modified), and Amending Chapter 201, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 201, Revised Laws of Hawaii 1955, as amended, is hereby repealed, and a new Chapter 201 enacted to read as follows :

**“Chapter 201—Retail Installment Sales.**

Section 1. **Definitions.** In this chapter, unless the context or subject matter otherwise requires :

‘Goods’ means all chattels personal other than money and things in action, except as herein provided, and includes emblements, growing crops and things which attach to or form a part of land which are agreed to be severed before sale under the retail installment contract and things which at the time of sale or subsequently are to be so affixed to real property as to become a part thereof, whether or not severable therefrom. The term includes merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods sold by such a seller. The term also includes services as herein defined.

‘Services’ means work, labor or services of any kind whether purchased primarily for personal, family, household, commercial or business use, and whether or not furnished in connection with the delivery, installation, servicing, repair or improvement of goods, and includes repairs, alterations or improvements upon or in connection with real property.

‘Retail buyer’ or ‘buyer’ means any person who buys goods from a retail seller in a retail installment sale and who executes a retail installment contract in connection therewith.

'Retail seller' or 'seller' means any person who sells goods to a retail buyer in a retail installment sale.

'Retail installment sale' or 'sale' means and includes any sale, other than for the purpose of resale, of goods to a retail buyer pursuant to a retail installment contract providing for payment of a time sale price. The cash sale price of the goods and the amount, if any, included for insurance and other benefits, official fees and finance charge shall together constitute the time sale price.

'Retail installment contract' or 'contract' means and includes any agreement, including a conditional sale contract or any other form of instrument, evidencing an obligation to pay the purchase price, or monies advanced in payment of the purchase price, of goods, by payment thereof in two or more installments over a period of time, whether or not such contract contains a title retention provision. This term includes any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

'Cash sale price' means the cash sale price stated in a retail installment contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the goods which are the subject matter of the retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, registration, license and other fees and charges for accessories and their installation and for delivering, servicing, repairing or improving the goods.

'Official fees' means the filing or other fees required by law to any governmental agency for the recording, registering or filing of any documents necessary in connection with the transaction; provided, that nothing herein shall be deemed to require the recording, registering or filing of any document, except as provided by law.

'Finance charge' means the amount, however denominated or expressed, which the retail buyer contracts to pay or pays for the privilege of purchasing goods to be paid for in installments under the terms of the retail installment contract; it does not include the amounts, if any, charged for insurance or other benefits, delinquency charges, attorneys' fees, court costs or collection fees and expenses.

'Person' means an individual, partnership, corporation, association or other group however organized.

**Section 2. General Requirements of Retail Installment Contracts.** Every retail installment contract shall be in writing, shall contain all the agreements of, and shall be signed by, the parties; provided, that such contract may provide for purchases to be made by the buyer from time to time and shall be effective as to such purchases. If the contract provides for purchases to be made from time to time, such contract shall contain the notice required by subsection (b) hereof and the amount or rate of the finance charge applicable to purchases thereunder. The sales slip or other written statement or evidence with respect to each such purchase shall be furnished to the buyer promptly following each purchase and may at the option of the seller set forth the information required by section 3 or section 26.

The printed portion of the contract shall be in at least eight-point type. The contract shall contain, printed or written in a size equal to at least ten-point bold type, the following:

(a) Both at the top of the contract and directly above the space reserved for the signature of the buyer, the words 'RETAIL INSTALLMENT CONTRACT'; and

(b) The following notice: 'NOTICE TO THE BUYER: 1. Do not sign this contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this contract when you sign it. 3. Under the law, you have the following rights, among others: (a) To pay off in advance the full amount due and to obtain a partial refund of the finance charge, if paid in advance; (b) Under certain conditions, to redeem the property if repossessed for a default.'

The contract shall contain the names of the parties and their respective places of business or residence. Either the contract, or the sales slip or other written statement or evidence of the purchase required to be furnished to the buyer under this section, shall contain a description of the goods, including make, model and identification number or marks, if any.

**Section 3. Specific Requirements of Retail Installment Contracts.** Every contract shall contain the following items:

(a) The cash sale price of the goods which are the subject matter of the retail installment sale;

(b) The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods if any, traded-in;

(c) The difference between items (a) and (b);

(d) The amounts, if any, charged for insurance and other benefits, specifying the coverages and benefits;

(e) The amount of official fees, as defined in section 1.

(f) The principal balance, which is the sum of items (c), (d) and (e);

(g) The amount of the finance charge; which may be stated as a per cent of the monthly unpaid balance to accrue thereafter, if such finance charge is not capitalized or stated as a dollar amount in any of the documents or payment books connected with the transaction;

(h) The time balance, which is the sum of items (f) and (g), payable in installments by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and cents and the due date or period thereof if the finance charge is stated in a dollar amount.

(i) The time sale price if the finance charge is stated in a dollar amount.

Additional items may be included in the contract to explain the calculations involved in determining the stated time balance to be paid by the buyer.

**Section 4. Contract Copy to Buyer—Acknowledgment.** Upon the execution of the contract, a copy thereof, signed by the parties, shall be immediately delivered to the buyer; provided, that if the contract is signed only by one party, and the signing thereof by the other is postponed, a copy thereof, as signed by such party, shall be immediately delivered to the buyer. Until a copy of the contract signed by the parties is delivered to the buyer, a buyer who has not received delivery of the goods has the right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded-in to the seller on account of or in contemplation of the contract. Any acknowledgment by the buyer of delivery of a

copy of the contract shall be printed or written in a size equal to at least ten-point bold type, and, if contained in the contract, shall also appear directly above the legend required above the buyer's signature by section 2 of the chapter. However, this section shall not apply when the merchandise has been specially ordered or custom made to the specifications of the purchaser and evidence of such order is provided by the seller.

**Section 5. Insurance Provisions.** The amount, if any, charged for insurance, shall not exceed the premiums chargeable in accordance with rate filings made with the commissioner of insurance for similar insurance. The seller or holder, if dual interest insurance on the goods is included in a retail installment contract, and a separate charge is made therefor shall within 30 days after execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this State, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer of goods under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of his own selection, and in an insurance company of his own selection authorized to do business in this State; provided, however, that this provision shall not prevent the exercise by the seller or holder of his, her or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

If any such policy or certificate is cancelled, the unearned insurance premium refund received by the holder of the contract shall be credited to the final maturing installments of the retail installment contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and the holder of the contract or either of them.

**Section 6. Delinquency and Collection Charges—Attorney's Fees.** The holder of a retail installment contract, including any industrial loan company, may, if the contract so provides, collect a delinquency and collection charge on each installment in default for a period not less than 10 days in an amount not in excess of 5% of each installment or \$5.00, whichever is less. In addition to such delinquency and collection charge, the retail installment contract may provide for the payment of reasonable attorney's fees or collector's fees where such contract is referred for collection to an attorney or licensed collector who is not a salaried employee or officer of the holder of the contract.

**Section 7. Blank Spaces in Contract—Assignee Without Knowledge.** No retail installment contract shall be enforceable by the seller when it contains blank spaces to be filled in after it has been signed by the buyer; provided that, if delivery of the goods is not made at the time of the execution of the contracts, the identifying numbers or marks or similar information and the date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of section 4 of this chapter, of delivery of a copy of a contract shall be conclusive proof of such delivery and of compliance with this subdivision in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.

**Section 7a. Catalog Mail Order Sales.** Retail installment sales negotiated and entered into by mail without personal solicitation by a salesman or other

representative of the seller, and if seller's cash and deferred payment prices and other terms are clearly set forth in a catalog, or other printed solicitation of business, which is generally available to the public, may be made as hereinafter provided. All of the provisions of this chapter shall apply to such sales except the seller shall not be required to deliver a copy of the contract to the buyer as provided in section 4 of this chapter, and if, when the proposed retail installment sale contract is received by the seller from the buyer, there are blank spaces to be filled in, the seller may insert in the appropriate blank spaces the amounts of money and other terms which are set forth in the seller's catalog which is then in effect; and in lieu of the copy of the contract provided for in section 4 hereof the seller shall, within 15 days from date of shipment of goods, furnish to the buyer a written statement of the items inserted in such blank spaces.

**Section 8. Payment Without Notice of Assignment.** Unless the buyer has notice of actual assignment of a retail installment contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees. Such notice may be given by first class mail to the address of the buyer as shown in the contract or to the last known address of the buyer.

**Section 9. Statement and Receipt of Payments.** Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.

**Section 10. Acceleration of Time Balance.** No provisions in a retail installment contract by which, in the absence of the buyer's default, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the time balance shall be enforceable.

**Section 11. Confession of Judgment—Power of Attorney—Wage Assignment.** No provision in a retail installment contract for confession of judgment, power of attorney therefor, or wage assignment shall be enforceable in this State, prior to a default by the buyer.

**Section 12. Unlawful Repossession.** No provision in a retail installment contract which authorizes seller or holder of the contract or other person acting on his behalf to enter upon the buyer's premises unlawfully, or to commit any breach of the peace in the repossession of the goods shall be enforceable.

**Section 13. Waiver of Illegal Act—Collection.** No provision in a retail installment contract by which the buyer waives any right of action against the seller or holder of the contract, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the goods shall be enforceable.

**Section 14. Inclusion of Other Security for Time Sale Price.** No provision in a retail installment contract for the subsequent inclusion of title to or a lien upon any goods, other than the goods which are the subject matter of the retail installment sale, or accessories therefor or special or auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any thereof, as security for payment of the time sale price, shall be enforceable.

**Section 15. Appointment of Agent—Collection or Repossession.** No provision in a retail installment contract by which the buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or in the repossession of the goods shall be enforceable.

**Section 16. Preservation of Buyer's Rights—Assignment.**

(a) No contract shall contain any provision by which a buyer agrees not to assert against a seller a claim or defense arising out of the sale or agrees not to assert against an assignee such a claim or defense other than as provided in subsection (c).

(b) No contract shall require or entail the execution of any note or series of notes by the buyer which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the seller except as provided in subsection (c).

(c) No right of action or defense arising out of a retail installment sale which the buyer has against the seller and which would be cut off by assignment, shall be cut off by the assignment of the contract to any third party whether or not such party acquires the contract in good faith and for value unless the assignee gives notice of the assignment to the buyer as provided in this section and within 15 days of the mailing of such notice receives no written notice of the facts giving rise to the claim or defense of the buyer. A notice of assignment shall be in writing, addressed to the buyer at the address shown on the contract and shall identify the contract and inform the buyer that he must within 15 days of the date of mailing such notice, notify the assignee in writing of any facts giving rise to a claim or defense which he may have. The notice of assignment shall state the name of the seller and buyer, a description of goods and services, the time balance and the number and amounts of installments.

**Section 17. Failure to Comply—Remedy of Buyer.** In case of failure of the seller or holder to comply with the provisions of this chapter, the buyer has the right to recover from the seller or holder, as the case may be, an amount equal to the finance charge or 10% of the cash price if no finance charge is specified in the contract or supplementary statement, whichever is the greater, plus reasonable attorneys' fees.

**Section 18. Cancellation of Contract.** After the payment of all sums for which the buyer is obligated under a retail installment contract, the holder of such contract shall mail to the buyer at his last known address, good and sufficient instruments to indicate payment in full and to release all security in the goods, and cancelled negotiable instruments evidencing said indebtedness.

**Section 19. Credit Upon Anticipation of Payments.** Notwithstanding the provisions of any retail installment contract to the contrary, any buyer, upon 5 days prior notice to the holder, may satisfy in full at any time before maturity the debt of any retail installment contract and in so satisfying such debt shall receive a refund credit thereon for such anticipation of payments, if the finance charge shall have been paid in advance. The amount of such refund shall represent at least as great a proportion of the total finance charge, less an acquisition cost of \$10, as the sum of the periodical time balances, after the day of prepayment, bears to the sum of all the periodical time balances under the schedule of payments in the contract. When the



amount of the credit for anticipation of payments is less than one dollar, no refund need be made.

**Section 20. Penalties.** Any person who willfully and knowingly violates any provisions of this chapter is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than \$500.00.

Any person violating any of the provisions of sections 2 to 17, inclusive, or any person willfully and knowingly acquiring a retail installment contract with knowledge of such violation by any person is barred from recovery of any finance charge, delinquency or collection charge or refinancing charge on the retail installment contract involved.

Notwithstanding the provisions of this section, the failure to comply with any provisions of this chapter may be corrected by the seller at any time after the execution of the retail installment contract or in any event not later than 10 days after the seller is notified thereof in writing by the buyer, and, if so corrected, neither the seller nor the holder is subject to any criminal penalty under this or any other section of this chapter.

**Section 21. Waiver.** Any provision in a retail installment contract waiving any of the requirements of this chapter shall be unenforceable and void.

**Section 22. Notice of Intention to Retake—No Redemption.** Not more than 40 nor less than 20 days prior to the retaking, the holder of the retail installment contract, if he so desires, may serve upon the buyer personally or by registered or certified mail a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which the goods will be retaken, and shall briefly and clearly state what the buyer's rights under this article will be in case they are retaken. If the notice is so served and the buyer does not perform the obligations in which he has made default before the day set for retaking, the holder of the retail installment contract may retake the goods and hold them subject to the provisions of sections 23 and 24 regarding resale, but without any right of redemption. Acceptance of partial payment subsequent to service of notice hereunder, and prior to repossession shall not constitute a waiver of default or of the holder's right to repossess pursuant to such notice.

**Section 22a. Redemption.** If the holder does not give the notice of intention to retake described in section 22, he shall retain the goods for 10 days after the retaking, during which period the buyer, upon payment or tender of the amount owing under the contract, together with any expenses of taking, keeping and storage, may redeem the goods and become entitled to retake possession of them; provided, however, that the holder shall not be entitled to the expense of taking, keeping and storage, unless, at least 5 days before the taking, the holder has mailed to the last-known address of the buyer as shown by the holder's records, a notice stating the buyer's default. Upon written demand delivered personally or by registered or certified mail by the buyer, the holder shall furnish to the buyer a written statement of the sum due under the contract and the expense of taking, keeping and storage. For failure to furnish such statement within a reasonable time after demand, the holder shall forfeit to the buyer \$10 and also be liable to him for all damages suffered because of such failure. If the goods are perishable so that retention for 10 days as herein prescribed would result in their destruction or substantial injury, the provisions of this section shall not apply, and the holder may resell the goods immediately upon their retaking.

**Section 23. Right of Resale.** If the holder retakes the goods pursuant to section 22 or if the buyer fails to exercise his right of redemption pursuant to section 22(a), the holder may retain the goods or at his election resell the goods at public or private sale; provided, that if the buyer has paid at least 50% of the purchase price at the time of the retaking, and if the buyer delivers to the seller within 10 days after the retaking a written notice demanding the resale, the seller shall sell said property so retaken at public or private sale. Such sale shall be held within a reasonable time after such retaking, may be made without demand for performance, with or without notice to the buyer, with or without having such property at the place of sale, and upon such terms and in such manner as the seller may determine, subject, however, to the requirements and conditions of this section. The seller shall make reasonable efforts to secure a fair price for the goods upon such resale and shall make and preserve for one year a written record of such efforts, and of the resale. The seller may purchase at any such resale. If the holder does not resell the goods within a reasonable time after retaking, he shall be deemed to have elected to retain the goods and release the buyer from any further obligations under the contract.

**Section 24. Proceeds of Resale.** The proceeds of a resale shall be applied (1) to the payment of the expenses thereof, (2) to the payment of any expenses of retaking, keeping and storing the goods, including reasonable attorneys' fees, to which the holder may be entitled, (3) to the satisfaction of the balance due under the contract. Any sum remaining after the satisfaction of such claims shall be paid to the buyer.

**Section 25. Deficiency on Resale.** If the proceeds of the resale are not sufficient to defray the expenses thereof, and also the expenses of retaking, keeping and storing the goods to which the holder may be entitled and the balance due upon the purchase price, the holder may recover the deficiency from the buyer, or from any one who has succeeded to the obligations of the buyer. The buyer may have the reasonableness of the expense of retaking, keeping and storing the goods and the reasonable value of the goods at the time of resale determined in any action or proceeding brought by the holder to recover the deficiency, the resale price being *prima facie* but not conclusive evidence of such reasonable value. The reasonable value as determined, or the resale price, whichever shall be higher, shall be credited to the buyer on account of his indebtedness.

If the buyer has paid an amount equal to 80% or more of the total time sale price at the time of his default under the contract, and if the buyer, at the request of the holder without legal proceedings, surrenders the goods to the holder in ordinary condition and free from malicious damage, the holder must, within a period of 5 days from the date of receipt of the goods at his place of business, elect either (a) to retain the goods and release the buyer from further obligation under the contract, or (b) to return the goods to the buyer at the holder's expense and be limited to an action to recover the balance of the indebtedness.

**Section 26. Additions to and Consolidations of Retail Installment Contracts.** Where a buyer makes any subsequent purchases of goods from a seller from whom he has previously purchased goods under one or more retail installment contracts, and the amounts under such contract or contracts have not been fully paid, the subsequent purchases may be included in and consolidated with one or more of the prior contract or contracts. A

memorandum of such additional purchases shall be prepared by the seller, inserted in or attached to the seller's counterpart of the contract and shall set forth:

- (a) A description of the additional goods so purchased;
- (b) The consolidated total indebtedness of the buyer;
- (c) The finance charge stated either as (1) the additional amount on the subsequent purchase, (2) the total amount on the consolidated contract, or (3) a per cent of the monthly outstanding balance;
- (d) The revised installment payments.

A copy of said memorandum shall be furnished to the buyer under the same terms and conditions as are set forth in section 4 of this chapter.

When such subsequent purchase is made, the entire amount of all payments made previous to the subsequent purchase is to be applied toward the payment of the previous purchase or purchases and each payment thereafter received is to be allocated to all of the various purchases in the same proportion or ratio as the original cash prices of the various purchases bear to one another. Where the amount of each installment payment is increased in connection with the additional purchase, the subsequent payments, at the seller's election is to be allocated as follows: an amount equal to the increase, to the subsequent purchase. However, the amount of any initial or down payment on the subsequent purchase is to be allocated in its entirety to such purchase. The provisions of this section shall not apply in cases involving equipment, parts or other merchandise attached or affixed to goods previously purchased or repairs or services rendered by the seller in connection therewith at the buyer's request.

**Section 27. Prohibition of Removal or Sale Without Notice.** Unless the contract otherwise provides, the buyer may, without the consent of the seller, remove the goods from the island in which the goods are first kept for use by the buyer after the sale and sell, mortgage, or otherwise dispose of his interest in them; but prior to full compliance with the terms of the contract by the buyer, no such buyer shall remove the goods from such island except for temporary use for a period of not more than 30 days unless the buyer not less than 10 days before such removal shall give the seller written notice, either personally or by registered or certified mail, of the place to which the goods are to be removed and the approximate time of such intended removal; nor prior to the performance of the condition shall the buyer sell, mortgage, or otherwise dispose of his interest in the goods, unless he or the person to whom he is about to sell, mortgage, or otherwise transfer the same shall notify the seller in writing, either personally or by registered or certified mail, of the name and address of the person to whom his interest in the goods is about to be sold, mortgaged or otherwise transferred.

**Section 28. Fraudulent Injury, Concealment, Removal or Sale; Penalty.** When, in violation of the terms of the contract by the buyer, the buyer, maliciously or with the intent to defraud, shall injure, destroy or conceal the goods, or, without the consent of the seller, maliciously or with intent to defraud, removes them from the island in which they were first kept for use by the buyer after the sale, or to which with the consent of the seller they have been removed, or shall sell, mortgage, or otherwise dispose of such goods under claim of full ownership, he shall be fined not more than \$500 or imprisoned not more than one year, or both.

**Section 29. Regulation of Finance Charges.** It shall be unlawful directly or indirectly to charge, contract for, collect or receive any finance charge, on a retail installment contract except as is provided by this section.

Such finance charge shall not exceed the amount of interest which could lawfully be deducted in advance by an industrial loan company under the provisions of chapter 194 on a loan to run for the same period as the retail installment contract, where the actual cash received by the borrower after such deduction of interest in advance would be equal in amount to the time balance of the retail installment contract, provided that a minimum finance charge of not more than \$10 shall be allowable in a retail installment sale of less than \$100 when such finance charge is stated in a dollar amount.

**Section 30. Retail Installment Contract Valid Except as Otherwise Provided.** Every provision in a retail installment contract reserving property in the seller after possession of the goods is delivered to the buyer shall be valid as to all persons, except as in this chapter otherwise provided.

**Section 31. Severability.** If any provision of this chapter or the application thereof to any person or circumstances is held unconstitutional, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section 32. Short Title.** This chapter may be cited as 'The Retail Installment Sales Act'."

**SECTION 2.** This Act shall take effect January 1, 1962 and shall not apply to retail installment contracts made prior to that date.

(Approved May 23, 1961.) **H.B. 1236.**

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## ACT 103

A Bill for an Act Concerning Procedure of Administrative Agencies and Review of Their Determinations.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Definitions.** For the purpose of this Act:

(a) "Agency" means each state or county board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches.

(b) "Persons" includes individuals, partnerships, corporations, associations, or public or private organizations of any character other than agencies.

(c) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any court or agency proceeding.

(d) "Rule" means each agency statement of general or particular applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any agency. The term does not include regulations concerning only the internal management of an agency and not affecting private rights of or procedures available to the public, nor does the term include declaratory rulings issued pursuant to section 8, nor intra-agency memoranda.

(e) "Contested case" means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.

(f) "Agency hearing" refers only to such hearing held by an agency immediately prior to a judicial review of a contested case as provided in section 14.

#### **SECTION 2. Public Information.**

(a) In addition to other rule-making requirements imposed by law, each agency shall:

(1) Adopt as a rule a description of the methods whereby the public may obtain information or make submittals or requests.

(2) Adopt rules of practice, setting forth the nature and requirements of all formal and informal procedures available, and including a description of all forms and instructions used by the agency.

(3) Make available for public inspection all rules and written statements of policy or interpretation formulated, adopted, or used by the agency in the discharge of its functions.

(4) Make available for public inspection all final opinions and orders.

(b) No agency rule, order, or opinion shall be valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been published or made available for public inspection as herein required, except where a person has actual knowledge thereof.

(c) Nothing in this section shall affect the confidentiality of records as provided by statute.

#### **SECTION 3. Procedure for Adoption, Amendment or Repeal of Rules.**

Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

(a) Give at least twenty days' notice for a public hearing. Such notice shall include a statement of the substance of the proposed rule, and of the date, time and place where interested persons may be heard thereon. The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rule-making proceedings, and published at least once in a newspaper of general circulation in the state for state agencies and in the county for county agencies.

(b) Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

(c) Notwithstanding the foregoing, if an agency finds that an imminent peril to the public health, safety, or morals requires adoption, amendment, or repeal of a rule upon less than twenty days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

#### **SECTION 4. Filing and Taking Effect of Rules.**

(a) Each agency adopting, amending, or repealing a rule shall file forthwith certified copies thereof with the lieutenant governor in the case of the State, or with the clerk of the county in the case of a county. In addition the clerks of all of the counties shall file forthwith certified copies thereof with the lieutenant governor. A permanent register of such rules open to

public inspection shall be kept by the lieutenant governor and the clerks of the counties.

(b) Each rule hereafter adopted, amended, or repealed shall become effective ten days after filing with the lieutenant governor in the case of the state, or with the respective county clerks in the case of the counties.

(1) If a later effective date is required by statute or specified in the rule, such later date shall be the effective date, provided, however, that no rule shall specify an effective date in excess of thirty days after the filing of the rule as provided herein.

(2) An emergency rule shall become effective upon filing with the lieutenant governor in the case of the state, or with the respective county clerks in the case of the counties for a period of not longer than one hundred twenty days without renewal unless extended in compliance with the provisions of subsections (a) and (b) of section 3, if the agency finds that immediate adoption of the rule is necessary because of imminent peril to the public health, safety or morals. The Agency's finding and brief statement of the reasons therefor shall be incorporated in the rule as filed. The agency shall make an emergency rule known to persons who will be affected by it by publication at least once in a newspaper of general circulation in the state for state agencies and in the county for county agencies within five days from the date of filing of such rule.

#### **SECTION 5. Publication of Rules.**

(a) Each agency shall, as soon as practicable after the effective date of this Act, compile, index and publish all rules adopted by such agency and remaining in effect. Compilations shall be supplemented as often as necessary and shall be revised at least once every ten years.

(b) Compilations and supplements shall be made available free of charge upon request by the state officers in the case of a state agency and by the county officers in the case of a county agency. As to other persons each agency may fix a price to cover mailing and publication costs.

#### **SECTION 6. Petition for Adoption, Amendment or Repeal of Rules.**

Any interested person may petition an agency requesting the adoption, amendment, or repeal of any rule stating reasons therefor. Each agency shall adopt rules prescribing the form for such petitions and the procedure for their submission, consideration and disposition. Upon submission of such petition, the agency shall within thirty days either deny the petition in writing, stating its reasons for such denial or initiate proceedings in accordance with section 3.

#### **SECTION 7. Declaratory Judgment on Validity of Rules.**

(a) Any interested person may obtain a judicial declaration as to the validity of an agency rule as provided in subsection (b) herein by bringing an action against the agency in the circuit court of the county in which petitioner resides or has its principal place of business. Such action may be maintained whether or not petitioner has first requested the agency to pass upon the validity of the rule in question.

(b) The court shall declare the rule invalid if it finds that it violates constitutional or statutory provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.

**SECTION 8. Declaratory Rulings by Agencies.** Any interested person may petition an agency for a declaratory order as to the applicability of any

statutory provision or of any rule or order of the agency. Each agency shall adopt rules prescribing the form of such petitions and the procedure for their submission, consideration and prompt disposition. Orders disposing of petitions in such cases shall have the same status as other agency orders.

**SECTION 9. Contested Cases; Notice; Hearing; Records.**

(a) In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice.

(b) The notice shall include a statement of :

- (1) The date, time, place and nature of hearing ;
- (2) The legal authority under which the hearing is to be held ;
- (3) The particular sections of the statutes and rules involved ;

(4) An explicit statement in plain language of the issues involved and the facts alleged by the agency in support thereof ; provided, however, that if the agency is unable to state such issues and facts in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved, and thereafter upon application a bill of particulars shall be furnished.

(5) The fact that any party may retain counsel if he so desires.

(c) Opportunity shall be afforded all parties to present evidence and argument on all issues involved.

(d) Any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(e) For the purpose of agency decisions, the record shall include :

- (1) All pleadings, motions, intermediate rulings ;
- (2) Evidence received or considered, including oral testimony, exhibits, and a statement of matters officially noticed ;
- (3) Offers of proof and rulings thereon ;
- (4) Proposed findings and exceptions ;
- (5) Report of the officer who presided at the hearing ;
- (6) Staff memoranda submitted to members of the agency in connection with their consideration of the case.

(f) It shall not be necessary to transcribe the record unless requested for purposes of rehearing or court review.

(g) No matters outside the record shall be considered by the agency in making its decision except as provided herein.

**SECTION 10. Rules of Evidence; Official Notice.** In contested cases :

(a) Any oral or documentary evidence may be received, but every agency shall as a matter of policy provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence and no sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative, and substantial evidence. The agencies shall give effect to the rules of privilege recognized by law.

(b) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available ; provided that upon request parties shall be given an opportunity to compare the copy with the original.

(c) Every party shall have the right to conduct such cross examination as may be required for a full and true disclosure of the facts, and shall have the right to submit rebuttal evidence.

(d) Agencies may take notice of judicially recognizable facts. In addition, they may take notice of generally recognized technical or scientific facts within their specialized knowledge ; but parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed.

**SECTION 11. Examination of Evidence by Agency.** Whenever in a contested case the officials of the agency who are to render the final decision have not heard and examined all of the evidence, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision containing a statement of reasons and including determination of each issue of fact or law necessary to the proposed decision has been served upon the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the officials who are to render the decision, who shall personally consider the whole record or such portions thereof as may be cited by the parties.

**SECTION 12. Decisions and Orders.** Every decision and order adverse to a party to the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. If any party to the proceeding has filed proposed findings of fact, the agency shall incorporate in its decision a ruling upon each proposed finding so presented. Parties to the proceeding shall be notified by delivery or mailing a certified copy of the decision and order and accompanying findings and conclusions within a reasonable time to each party or to his attorney of record.

**SECTION 13. Consultation by Officials of Agency.** No official of an agency who renders a decision in a contested case shall consult any person on any issue of fact except upon notice and opportunity for all parties to participate, save to the extent required for the disposition of ex parte matters authorized by law.

**SECTION 14. Judicial Review of Contested Cases.**

(a) Any person aggrieved by a final decision and order in a contested case or by a preliminary ruling of such nature that deferral of review pending entry of a subsequent final decision would deprive appellant of adequate relief is entitled to judicial review thereof under this Act ; but nothing in this section shall be deemed to prevent resort to other means of review, redress, relief, or trial de novo, including the right of trial by jury, provided by law.

(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to the provisions of the Hawaii rules of civil procedure, except where a statute provides for a direct appeal to the supreme court and in such cases the appeal shall be in like manner as an appeal from the circuit court to the supreme court. The court in its discretion, may permit other interested persons to intervene.

(c) The proceedings for review shall not stay enforcement of the agency decisions ; but the agency or the reviewing court may order a stay upon such terms as it deems proper.

(d) Within fifteen days after the designation of the record on appeal, or within such further time as the court may allow, the agency shall transmit to the reviewing court the designated record of the proceeding under review.



The court may require or permit subsequent corrections or additions to the record when deemed desirable.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence material to the issue in the case, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon such conditions as the court deems proper. The agency may modify its findings, decision and order by reason of the additional evidence and shall file with the reviewing court, to become a part of the record, the additional evidence, together with any modifications or new findings or decision.

(f) The review shall be conducted by the court without a jury and shall be confined to the record, except that in the cases where a trial de novo, including trial by jury, is provided by law and also in cases of alleged irregularities in procedure before the agency not shown in the record, testimony thereon may be taken in court. The court shall, upon request by any party, hear oral argument and receive written briefs.

(g) Upon review of the record the court may affirm the decision of the agency or remand the case with instructions for further proceedings; or it may reverse or modify the decision and order if the substantial rights of the petitioners may have been prejudiced because the administrative findings, conclusions, decisions or orders are:

- (1) In violation of constitutional or statutory provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(h) Upon a trial de novo, including a trial by jury as provided by law, the court shall transmit to the agency its decision and order with instructions to comply with the order.

**SECTION 15. Appeals.** An aggrieved party may secure a review of any final judgment of the circuit court under this Act by appeal to the supreme court. Such appeal shall be taken in the manner provided in the Hawaii rules of civil procedure.

**SECTION 16. Severability.** If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 17. Repeal and Pending Proceedings.**

(a) Sections 7-28 through 7-41 inclusive of the Revised Laws of Hawaii 1955 are hereby repealed as of the time this Act shall take effect.

(b) Provisions of Act 261, Session Laws of Hawaii 1959 which are inconsistent with the provisions of this Act are hereby repealed as of the time this Act shall take effect.

(c) All rules and regulations adopted prior to the time of taking effect of this Act shall continue in full force and effect; however, all statutes in-

cluding those provided in the aforesaid subsections (a) and (b), rules and regulations, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed, and such repeal shall not affect any rights or obligations enjoyed or arising prior to the time of taking effect of this Act. Any proceeding commenced prior to the time of taking effect of this Act shall conform to the procedure as much as possible under the provisions of this Act after the Act becomes effective if the proceeding is still pending. All petitions, hearings and other proceedings pending before any agency whose procedure has been changed by this Act, and all legal proceedings or investigations by or against any agency not completed at the time this Act shall take effect, shall continue and remain in full force and effect before such agency, its successor as to its powers and functions, or court where the matter may be or has been commenced or is then pending.

SECTION 18. Section 116-11, Revised Laws of Hawaii 1955 is hereby amended to read as follows :

**"Section 116-11. Rules and Forms.** (a) The supreme court shall have power, consistently with the provisions of this chapter, to make rules relating to procedure, and to prescribe forms to be used, in tax appeals, including procedure and forms for the issuance of subpoenas and other process by the tax appeal court or members thereof. Such rules shall have the force and effect of law and shall be subject to change from time to time by the supreme court.

(b) The boards of review shall have power, consistently with the provisions of this chapter and the Administrative Procedure Act, to make rules relating to procedure, and to prescribe forms to be used, including procedure and forms for the issuance of subpoenas and other process by the boards of review or members thereof. Such rules shall have the force and effect of law."

SECTION 19. **Federal Aid.** The provisions of Section 14 shall not be applicable where such applicability would jeopardize federal aid or grants of assistance.

SECTION 20. **Short Title.** This Act may be cited as the Hawaii Administrative Procedure Act.

SECTION 21. **Time of Taking Effect.** This Act shall take effect on January 2, 1962.

(Approved May 23, 1961.) **H.B. 5.**

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## ACT 104

An Act Amending Chapter 102 of the Revised Laws of Hawaii 1955, as Amended, by Changing Certain Provisions Relative to the Making of Farm Loans.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 102 of the Revised Laws of Hawaii 1955, as amended, is hereby amended as follows :

(a) Section 102-1(b) is amended to read :

"b. 'Qualified farmer' means a person of proven farming ability who operates his own farm on land owned by him in fee or on land rented or

leased from others and who is presently devoting, has recently devoted, or intends to devote at least one-third of his time or derive at least one-third of his net cash income from direct participation in farming in its broadest sense. It includes Hawaii partnerships controlled to the extent of seventy-five per cent by persons who would qualify individually and would meet the eligibility requirements of section 102-10. It also includes small corporations where at least seventy-five per cent of each class of stock issued by the corporation is owned by persons who qualify individually and would meet the eligibility requirements of section 102-10 and where seventy-five per cent of the directors are qualified farmers."

(b) Section 102-1(c) and section 102-1(d) are deleted and section 102-1(e), (f) and (g) are relettered sections 102-1(c), (d) and (e) respectively.

(c) Section 102-5(b) is amended to read as follows:

"b. Loans insured under this section shall be limited by the provisions of sections 102-9 through 102-13 for purposes of classes 'A' through class 'E'."

(d) Section 102-5(c) is amended to read as follows:

"Interest charged on an insured loan made under the provisions of this section shall not be more than one and one-half per cent higher than for similar loans made directly by the State under section 102-8 or six and one-half per cent, whichever is the lesser."

(e) The last sentence of section 102-5(f) is amended to read as follows:

"The Department of Economic Development shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower."

(f) Section 102-6(a) is amended to read as follows:

"a. The department of economic development may provide funds for a share, not to exceed ninety per cent, of the principal amount of a loan made to a qualified farmer by a private lender who is unable otherwise to lend the applicant sufficient funds at reasonable rates where the qualified farmer is unable to obtain sufficient funds for the same purpose from the Farmers Home Administration."

(g) Section 102-6(b) is amended to read as follows:

"b. Participating loans under this section shall be limited by the provisions of sections 102-9 through 102-13 for purposes of classes 'A' through class 'E', the department of economic development's share not to exceed the maximum amounts specified therefor."

(h) The second sentence of section 102-6(c) is amended to read as follows:

"Interest charged on the private lender's share of the loan shall not be more than one and one-half per cent higher than the interest on the State's share, or six and one-half per cent, whichever is the lesser."

(i) Section 102-7(b) is amended to read as follows:

"b. Loans made under this section shall be limited by the provisions of sections 102-9 through 102-13 as they apply to class 'A' and class 'B' loans."

(j) Section 102-8(c) is amended to read as follows:

"c. Loans made under this section shall bear simple interest on the unpaid principal balance, charged on the actual amount disbursed to the borrower. Interest on loans of classes 'A' through 'C' and class 'E' shall not exceed five per cent per annum; provided, however, if the money loaned is borrowed by the department of economic development, State of Hawaii, then the interest on loans of such classes shall not exceed five per cent per annum

or one per cent over the cost to the State of borrowing the money, whichever is greater. Interest on class 'D' loans shall not exceed three per cent per annum."

(k) Section 102-9 is amended to read as follows :

**"102-9. Classes of loans; purposes, terms, eligibility.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes 'A' through 'E' in the subsections following and shall be made only to applicants who meet the eligibility requirements specified therein and except as to class 'B' loans to associations and class 'E' loans, the eligibility requirements specified in section 102-10.

a. Class A: Farm ownership and improvement loans. To provide for (1) the purchase or improvement of farm land; (2) the purchase, construction, or improvement of adequate farm dwellings, and other essential farm buildings; (3) the liquidation of indebtedness incurred for any of the foregoing purposes. Such loans shall be for an amount not to exceed \$60,000 and for a term not to exceed forty years. To be eligible the applicant shall (1) derive, or present an acceptable plan to derive, a major portion of his income from and devote, or intend to devote, most of his time to farming operations; (2) have or be able to obtain the operating capital, including livestock and equipment, needed to successfully operate his farm.

b. Class B: Soil and water conservation loans. To provide for (1) soil conservation practices; (2) water development, conservation, and use; (3) drainage; (4) the liquidation of indebtedness incurred for any of the foregoing purposes. Such loans shall be for an amount not to exceed \$35,000 to an individual or \$200,000 to an association and shall be for a term not to exceed twenty years for a loan to an individual and forty years to an association. To be eligible an individual applicant shall have sufficient farm and other income to pay for farm operating and living expenses and to meet payments on his existing debts, including the proposed soil and water conservation loan. An association, to be eligible, shall be a non-profit organization primarily engaged in extending services directly related to the purposes of the loan to its members, and at least sixty per cent of its membership shall meet the eligibility requirements specified in section 102-10.

c. Class C: Farm operating loans. To carry on and improve a farming operation, including (1) the purchase of farm equipment and livestock; (2) the payment of production and marketing expenses including materials, labor and services; (3) the payment of living expenses; (4) the liquidation of indebtedness incurred for any of the foregoing purposes. Such loans shall be for an amount not to exceed \$30,000 and for a term not to exceed ten years. To be eligible, an applicant shall derive or present an acceptable plan to derive a major portion of his income from and devote, or intend to devote, most of his time to farming operations.

d. Class D: Emergency Loans. To provide relief and rehabilitation to qualified farmers without limit as to purpose (1) in areas stricken by extraordinary rainstorms, windstorms, droughts, tidal waves, earthquakes, volcanic eruptions, and other natural catastrophes; (2) on farms stricken by livestock disease epidemics and crop blights; (3) on farms seriously affected by prolonged shipping and dock strikes; (4) during economic emergencies caused by overproduction, excessive imports, and the like. Such loans shall not exceed the maximum amounts and the maximum period speci-

fied in subsections 'a' through 'c' respectively, above, when the loan funds are used for the purposes specified therein.

e. Class E: Loans to cooperatives and corporations. To provide credit to farmers' cooperative associations and corporations engaged in marketing, purchasing and processing and providing farm business services, including (1) facility loans to purchase or improve land, building, and equipment for an amount not to exceed \$100,000 and a term not to exceed twenty years; (2) operating loans to finance inventories of supplies, warehousing and shipping of commodities, extension of consumer credit to justified farmer-members, and other normal operating expenses for an amount not to exceed \$50,000 and a term not to exceed three years. To be eligible, a cooperative or corporation shall have at least seventy-five per cent of its board of directors and seventy-five per cent of its membership as shareholders who meet the eligibility requirements of section 102-10 and who devote most of their time to farming operations."

(l) Section 102-10 is amended to read as follows:

**Section 102-10. General eligibility requirements for loans.** To be eligible for loans under this chapter, an applicant shall be:

a. A qualified farmer;

b. A citizen of the United States who has resided in the State for at least three years, or any alien who has resided in the State for at least five years; provided, however, that this requirement shall not apply to applicants for class 'D' loans who otherwise qualify. In the case of partnerships and corporations, the residence requirement must be met by seventy-five per cent of the members or stockholders who are qualified farmers;

c. A sound credit risk with the ability to repay the money borrowed;

d. Willing to carry out recommended farm management practices."

(m) Section 102-11(c) is amended to read as follows:

"c. For purposes of class 'A', class 'B', and class 'E' facility loans, no loan shall exceed 85 per cent of the value of the security offered; for purposes of class 'C' loans and class 'E' operating loans, the ratio of loan to the value of the security offered shall be discretionary with the director, for purposes of class 'D' loans, the director may, with the approval of the governor, modify or waive any or all security requirements or any limitation with respect thereto."

(n) Section 102-12(e) is amended by replacing the word "borrower" appearing therein with the word "lender".

(o) Section 102-13(d) is amended by changing the class of loan referred to from "class 'D'" to "class 'C'".

(p) Section 102-13(e) is amended by changing the class of loan referred to from "class 'E'" to "class 'D'".

(q) Section 102-11(d) is rescinded.

SECTION 2. Chapter 102 of the Revised Laws of Hawaii 1955, as amended, is further amended by adding a new section, to be appropriately numbered, reading as follows:

**"Sec. . Restriction.** Loans provided for by this chapter shall be authorized only if such loans cannot be made by the Farm and Home Administration."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 8.**

**ACT 105**

An Act Relating to Election Expenses and Amending Chapter 11 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding a new section to be numbered 11-76.5 and to read as follows:

**"Section 11-76.5. Election expenses when no county elections.** All expenses, including expenses attributable to registration of voters by the county clerk, for state elections conducted in any county which do not involve elections for county offices shall be borne by the State and paid out of such appropriations as may be made by the legislature for election purposes."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 45.**

**ACT 106**

An Act to Amend Section 353-46 of the Revised Laws of Hawaii 1955, Relating to the Pay of Enlisted Men of the Hawaii National Guard while on Active Duty in the Service of the State.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 353-46 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 353-46. Pay of enlisted men while on active duty.** Enlisted men of the army and air national guard while on active duty in the service of the State, except during periods of encampments, maneuvers, and other exercises, including outdoor target practice, shall receive the same pay and allowances as enlisted men of similar rank in the United States Army and Air Force, respectively; provided however, that the aggregate of such pay and allowances, computed on a daily basis, shall in no event be less than the amount equal to eight times the hourly wage specified in section 94-3 Revised Laws of Hawaii 1955 as amended."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 28.**

**ACT 107**

An Act to Require the State of Hawaii and its Political Subdivisions to Provide Safety Equipment to Public Employees when Required in Line of Duty.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered, and to read as follows:

**"Sec. . Safety equipment.** Each department or agency of the State and its political subdivisions shall furnish its employees with safety equipment when such equipment is required in connection with the employees' official duties by the codes and rules and regulations of the department of labor and industrial relations of the State. The cost of such equipment shall be a proper charge against the funds of the department or agency of the State and the respective political subdivisions, as the case may be, furnishing such equipment. Except in the case of gross negligence on the part of the employee losing or damaging such equipment, lost or damaged safety equipment and equipment worn out through wear and tear shall be replaced by the department or agency, or the respective political subdivisions, as the case may be."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) **S.B. 265.**

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## ACT 108

A Bill for an Act Amending Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 93, Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending section 93-97 thereof to read:

**"Section 93-97. Referee.** (a) In accordance with the provisions of paragraph (b) of section 93-90, the director shall appoint a referee.

(b) Subject to the provisions of sections 93-124 and 93-125, the referee shall receive a salary as fixed by law, and shall also be paid such reasonable travelling and other expenses as may be incurred in the discharge of his duties, such salary and expenses to be paid out of the employment security administration fund.

(c) The provisions of section 213-13 relating to disqualification of judges shall be equally applicable to the referee and any substitute referee.

(d) In accordance with the provisions of paragraph (b) of section 93-90, the director may appoint a substitute referee to serve during any temporary absence of the referee from the State or in case of his illness, or in case the referee is disqualified to hear any appeal or is otherwise unavailable or in the event of vacancy in the office of referee. If at any time or with respect to any appeal the referee and the substitute referee hereinabove mentioned are both unable to act, for any of the reasons above indicated, then the director may appoint another substitute referee, in accordance with the provisions of paragraph (b) of section 93-90, to serve for such time or with respect to such appeal. Any substitute referee, while so serving, shall have all the powers and duties of the referee and shall receive compensation for his services at the rate of \$20 per day for each day's actual attendance upon his duties and shall also be paid such reasonable travelling and other expenses as may be incurred in the discharge of his duties, such compensation and expenses to be paid out of the employment security administration fund. In case any appeal shall be referred to a substitute referee for hearing, the substitute referee shall retain jurisdiction of the appeal so referred to him, notwithstanding that the regular referee may become available, unless the refer-

ence of the appeal to the substitute referee shall be revoked by the director. The final decisions of the referee and the principles of law declared by him in arriving at such decisions, unless expressly or impliedly overruled by a later decision of a court of competent jurisdiction or of the referee, shall be binding upon any substitute referee in proceedings which involve similar questions of law."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1961.) H.B. 1394.

## ACT 109

A Bill for an Act Relating to the Labeling of Poultry Meatbird.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Notifying consumer.** No person shall sell or offer to sell any uncooked poultry meatbird without a label, as hereinafter described, notifying the purchaser of the geographic origin in which the poultry meatbird was grown. The foregoing provision shall not apply to New York-dress poultry meatbird or to poultry meatbird which is sold to an ultimate consumer at the farm or ranch where the poultry meatbird was grown or to sales subsequent to a sale at retail.

SECTION 2. **Description of label.** "Label" means the information required by this Act to be placed on poultry meatbird by means of a stamp, stencil or printing by machine, or by attaching to the immediate package, by sign, handbill, placard or otherwise, and shall be at least two inches by three inches with legible letters or figures of at least one-half of an inch in height and with the words "(insert the geographic origin as either MAINLAND or FOREIGN or LOCAL) GROWN".

SECTION 3. **Injunction.** Any violation of this Act may be enjoined or abated in a suit filed and prosecuted in the circuit court of the State of Hawaii by the department of agriculture and conservation.

SECTION 4. **Offense, penalty.** Each day that this Act is violated shall be a separate offense. Any person, firm, partnership or corporation who violates this Act shall be fined not more than \$500.

SECTION 5. **Administration and enforcement.** The department of agriculture and conservation shall administer and enforce this Act.

SECTION 6. **Effective date.** This Act shall take effect upon its approval.

(Approved May 25, 1961.) H.B. 1235.

## ACT 110

An Act Relating to Fishing, Amending Section 21-67 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend the first sentence of section 21-67 of the Revised Laws of Hawaii 1955, as amended, to read:



"The taking or killing of fish by means of any draw, drag or seine net in the waters of the harbor of Honolulu is prohibited, provided, that commercial fishermen as defined in section 21-110 may take bait fish by means of any draw, drag or seine net during periods scheduled by the harbor master."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1961.) **S.B. 54.**

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### **ACT 111**

An Act Relating to the Employees' Retirement System and Amending Section 6-75, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6-75 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending paragraph (1) thereof to read as follows:

"(1) Common stocks. Common stocks of any corporation located wholly or principally in the United States or its territories. The total investment in such common stocks shall at no time exceed twenty per cent of the total book value of all investments of the system."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1961.) **S.B. 874.**

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### **ACT 112**

An Act Amending Chapter 143 of the Revised Laws of Hawaii 1955, as Amended, and Relating to the Central Relocation Office.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 143-6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new subsection at the end thereof to read as follows:

"(f) To establish and operate a central relocation office which shall perform such functions and activities as may be necessary and proper for the satisfactory relocation of families displaced by any governmental action in decent, safe and sanitary dwellings at rents or prices within the financial means of such displaced families and located in areas reasonably accessible to their places of employment. To the extent that special funds are made available by the State or the county, the central relocation office shall have the authority to make relocation payments for actual moving costs to families displaced from other than urban renewal projects; provided, however, such payments shall not exceed \$100 for each displaced family."

SECTION 2. Section 143-15 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the last paragraph thereof to read as follows:

"The office of urban renewal coordinator shall submit in its budget estimates of amount required for administrative expenses and other costs of operation of the office of the urban renewal coordinator to be appropriated

from the redevelopment fund; provided, however, the amount to be appropriated for such purposes for any one year shall not exceed the sum of \$200,000; and provided further, however, that said estimates for the office of urban renewal coordinator shall have first been approved by the mayor or chairman of the board and the board."

SECTION 3. Section 143-59 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting subsection (e) therein in its entirety and by redesignating subsection (f) therein to (e).

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1961.) S.B. 1043.

### ACT 113

A Bill for an Act Relating to Motor Vehicle Operator's and Chauffeur's Licenses and Amending Chapter 160 of the Revised Laws of Hawaii 1955 by Providing for a Point System for the Evaluation of the Operating Records of all Persons Operating Motor Vehicles and for the Enforcement Thereof.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 160, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding new sections to be designated as Section 160- to Section 160- , and to read as follows:

**"Sec. 160- . Point system for evaluation of operating records of all persons operating motor vehicles and for determination of their continuing qualifications.**

(a) There is hereby established a point system for the evaluation of the operating records of all persons operating motor vehicles and for the determination of the continuing qualifications of such persons to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations of the traffic laws of the State and of traffic ordinances of its counties to be imposed by the district magistrate in accordance with the following schedule of minimum and maximum points:

- |  |               |
|--|---------------|
| (1) Heedless and careless driving .....  | 3 to 6 points |
| (2) Driving while license suspended or revoked (includes court conviction as well as safety responsibility violations) ..... | 3 to 6 "      |
| (3) Fraudulent use of license .....  | 3 to 6 "      |
| (4) Excessive speeding (15 miles or more over the established speed limit) .....   | 3 to 6 points |
| (5) Leaving scene of accident .....  | 3 to 6 "      |
| (6) Speeding (10 miles or more over the established speed limit) .....   | 1 to 4 "      |
| (7) Failure to report accident immediately .....   | 1 to 4 "      |
| (8) Driving on left side of roadway .....  | 0 to 4 "      |
| (9) Inattention to driving; negligent driving .....  | 1 to 4 "      |
| (10) Permitting unlicensed driver to drive .....   | 1 to 4 points |
| (11) Following too closely .....   | 1 to 3 "      |

(12)	Disregarding stop signs .....	1 to 3	"
(13)	Right of way violations .....	0 to 3	"
(14)	Disregarding traffic control signals .....	1 to 3	"
(15)	Unlawful passing .....	0 to 3	"
(16)	Unsafe changing of lanes .....	0 to 3	points
(17)	Crossing solid or double lines .....	0 to 3	"
(18)	Impeding traffic .....	0 to 2	"
(19)	Improper turning .....	0 to 2	"
(20)	Unsafe emergence from parked position .....	0 to 2	"
(21)	Disregarding pavement markings .....	0 to 2	"
(22)	Unsafe movements .....	0 to 2	points
(23)	Stopping at medial openings .....	1 to 2	"
(24)	Improper emergence from private driveway .....	1 to 2	"
(25)	Unattended motor vehicle (if motor running) .....	1 to 2	"
(26)	Violation of pedestrian's right of way .....	1 to 2	"
(27)	Unsafe equipment on vehicle .....	0 to 2	"
(28)	Faulty Brakes .....	0 to 2	"
(29)	Driving with improper lights .....	0 to 2	"

(b) When district magistrate shall suspend operator's or chauffeur's license based on point system. The district magistrate shall suspend, for a period from one to six months, the operator's or chauffeur's license of any person upon a showing of his or her record, based on a uniform point system as provided herein, that the licensee has been convicted of or forfeited bail for, or has been found under the provisions of chapter 333 to have violated traffic laws of the State or ordinances of its counties with such frequency as to indicate a disrespect for such laws or ordinances and a disregard for the safety of other persons on the highways. The district magistrate upon a showing of good cause may suspend the license suspension. For the purpose of this part, a total of 12 points assessed against any operator or chauffeur as determined by the values designated above shall indicate such disrespect and disregard. Nothing contained herein shall preclude the district magistrate from imposing any greater sentence as may be provided by law.

(c) Non-resident privilege of driving a motor vehicle. The privilege of driving a motor vehicle on the highways of this State and the several counties, given to a non-resident under the laws of this State, shall be subject to suspension by the district magistrate in like manner, and for like cause, the same as an operator's or chauffeur's license issued by this State may be suspended.

(d) Reports of outside convictions; recording against drivers. The district magistrates of each county shall enter into reciprocal agreements with the proper agency of any other county and the governor of the State may enter into such agreements with any state or territory for the purpose of reporting convictions or bail forfeitures in such county, state or territory by a person holding an operator's or chauffeur's license in such county, state or territory. Such convictions or bail forfeitures in such county, state or territory of a violation therein which if committed in this State, would be a violation of the traffic laws of this State or the ordinances of the several counties, shall be recorded against an operator or chauffeur the same as if the conviction or bail forfeiture had been made in the State.

(e) Reports of convictions by courts martial or United States commissioners; recording against operators or chauffeurs. Convictions by courts

martial of any of the various branches of the armed forces of the United States or by a United States commissioner of a violation either on or off government property which, if committed in this State, would be a violation of the traffic laws of this State or the ordinances of the several counties, may be recorded against an operator or chauffeur the same as if the conviction had been in the courts of this State.

(f) Reports prima facie evidence to show convictions. In all proceedings held under the provisions of this section, the original or photostatic or other copies of the reports filed with the district magistrates of each county, including official reports received from the directors of motor vehicle divisions, state highway departments, or other agencies of any county, state or territory charged with the duty of keeping records of offenses against the traffic laws of such counties, states or territories, and reports of courts martial of United States commissioners, when such copies are duly certified by the various agencies supplying them as true copies of the original on file therewith, shall be deemed prima facie evidence of the information contained in such reports, for the purpose of showing any convictions or bail forfeiture.

(g) Computation of points. In computing the total number of points charged to any person after a particular violation, those accrued as a result of violations which have occurred during the twelve months' period including and immediately preceding the last violation shall be counted at their full value; those accrued from twelve to twenty-four months preceding the last violation shall be counted at one-half their established value and those resulting from violations more than twenty-four months prior to the last violation shall not be counted. If no violation has been charged against a person during the twenty-four month period, a total of six favorable points will be credited to his account, which may be used to offset the points chargeable on account of violations. Computation of points shall begin with offenses occurring only after the effective date of this section. In the event that a district magistrate subsequent to the bail forfeiture does hear the case, he may set aside the points resulting from the bail forfeiture and designate the points he deems necessary provided that no licensee shall twice be assigned points for the same traffic violation.

(h) Notice of suspension to operator or chauffeur; return of license. Upon the determination and order by the district magistrate that a person has accumulated sufficient points to warrant the suspension of his license and the period of suspension, the licensee shall turn in his license as directed by the district magistrate if he is present in court. If the licensee is not present in court when the district magistrate makes a determination and order that the license shall be suspended, then the clerk of the district court shall notify such licensee in writing by certified mail, return receipt requested to addressee only, that his license has been suspended and such licensee shall, within fifteen days after receipt of such notice of suspension, return his license to the clerk of the district court. Any person willfully failing to return his license as required by this section shall, on conviction thereof, be fined not more than \$100 or imprisoned for not more than 30 days, or both.

(i) In the event of an appeal from the decision of the district magistrate to the circuit and supreme courts, or a trial in the circuit courts, such courts shall be governed by the provisions of this section and shall direct the dis-

strict magistrate and the clerk of the district magistrate to carry out their order.

(j) Any provisions herein to the contrary notwithstanding whenever an employee is cited for driving a vehicle with unsafe, faulty or improper equipment, brakes or lights and the responsibility for such condition is that of the employer, no points shall be assessed against the driver.

(k) Where bail forfeiture is allowed, the court shall assess against the driver the minimum points set forth in subsection (a) above, but in no case less than one point.

Any provisions herein to the contrary notwithstanding, in the case where the violation of the following items under subsection (a) above are due to the size or nature of the vehicle, or the necessity of the driver's following a specific route or schedule in the course of his employment, and not to inattention or fault on the part of the driver, the court shall assess no points: items (8), (13), (15), (16), (17), (18), (19), (20), (21), and (22).

**Sec. 160-71. District magistrates to keep records.** (a) The district magistrates of each county shall keep, maintain and control or shall otherwise provide for the keeping, maintaining and controlling of proper and accurate records of each conviction or bail forfeiture or any other disposition of each violation of licensee coming within the provisions of this Act. The district magistrates of each county shall also establish procedures for the accounting, control and disposition of each and every traffic citation, notice or summons used or issued, whether the use or issuance of the same is authorized by the court or by any other governmental agency under applicable laws or ordinances, which may include the keeping of an accurate citation, notice or summons control ledger or form in a numerical, chronological or other accountable manner.

**Section 160-72. Prohibiting 'fixing' of tickets and providing penalties therefor; nolle prosequi by prosecuting attorney only by motion and approval of court.** (a) It shall be unlawful for any person, including any government official or employee of the State or county, to 'fix', 'void', change, modify, adjust, tamper with or otherwise dispose of any traffic citation, notice or summons. Nothing contained in this subsection shall be construed to affect the powers of the judges and magistrates of the several courts in the exercise of their judicial functions. Any person who violates the provisions of this subsection shall be fined not more than \$1,000, or imprisoned for not more than one year, or both. Any government official or employee of this State or any county who violates any of the provisions hereof shall be summarily discharged from his office or employment.

(b) No nolle prosequi shall be entered in any case involving a violation of the traffic laws or ordinances of the State or of the several counties and no such case or any charge arising therefrom shall be stricken, amended or reduced except by consent of the court upon written motion of the prosecuting attorney stating the reasons therefor. The court may deny such motion if it deems such reasons insufficient."

**SECTION 2.** Insurers may provide preferential insurance rates to those persons who have favorable records to their credit.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 25, 1961.) **H.B. 33.**

**ACT 114**

A Bill for an Act to Amend Chapter 93 of the Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 93 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) Amend the benefit schedule in Section 93-21 to read as follows:

High Quarter Wages (Column A)	Basic Weekly Benefit (Column B)	Minimum Qualifying Wages (Column C)	Maximum Total Benefits in Benefit Year (Column D)
\$ 37.50- 125.00	\$ 5.00	\$ 150.00	\$ 130.00
125.01- 150.00	6.00	180.00	156.00
150.01- 175.00	7.00	210.00	182.00
175.01- 200.00	8.00	240.00	208.00
200.01- 225.00	9.00	270.00	234.00
225.01- 250.00	10.00	300.00	260.00
250.01- 275.00	11.00	330.00	286.00
275.01- 300.00	12.00	360.00	312.00
300.01- 325.00	13.00	390.00	338.00
325.01- 350.00	14.00	420.00	364.00
350.01- 375.00	15.00	450.00	390.00
375.01- 400.00	16.00	480.00	416.00
400.01- 425.00	17.00	510.00	442.00
425.01- 450.00	18.00	540.00	468.00
450.01- 475.00	19.00	570.00	494.00
475.01- 500.00	20.00	600.00	520.00
500.01- 525.00	21.00	630.00	546.00
525.01- 550.00	22.00	660.00	572.00
550.01- 575.00	23.00	690.00	598.00
575.01- 600.00	24.00	720.00	624.00
600.01- 625.00	25.00	750.00	650.00
625.01- 650.00	26.00	780.00	676.00
650.01- 675.00	27.00	810.00	702.00
675.01- 700.00	28.00	840.00	728.00
700.01- 725.00	29.00	870.00	754.00
725.01- 750.00	30.00	900.00	780.00
750.01- 775.00	31.00	930.00	806.00
775.01- 800.00	32.00	960.00	832.00
800.01- 825.00	33.00	990.00	858.00
825.01- 850.00	34.00	1020.00	884.00
850.01- 875.00	35.00	1050.00	910.00
875.01- 900.00	36.00	1080.00	936.00
900.01- 925.00	37.00	1110.00	962.00
925.01- 950.00	38.00	1140.00	988.00
950.01- 975.00	39.00	1170.00	1014.00
975.01-1000.00	40.00	1200.00	1040.00
1000.01-1025.00	41.00	1230.00	1066.00
1025.01-1050.00	42.00	1260.00	1092.00

1050.01-1075.00	43.00	1290.00	1118.00
1075.01-1100.00	44.00	1320.00	1144.00
1100.01-1125.00	45.00	1350.00	1170.00
1125.01-1150.00	46.00	1380.00	1196.00
1150.01-1175.00	47.00	1410.00	1222.00
1175.01-1200.00	48.00	1440.00	1248.00
1200.01-1225.00	49.00	1470.00	1274.00
1225.01-1250.00	50.00	1500.00	1300.00
1250.01-1275.00	51.00	1530.00	1326.00
1275.01-1300.00	52.00	1560.00	1352.00
1300.01-1325.00	53.00	1590.00	1378.00
1325.01-1350.00	54.00	1620.00	1404.00
1350.01 and over	55.00	1650.00	1430.00

(b) Amend paragraph (b) of Section 93-60 by deleting "\$3,000" wherever it appears therein and substituting "\$3,600".

(c) Amend subsection (d) of Section 93-28 by inserting the following after the first sentence:

"Notwithstanding any provisions of this section to the contrary, an individual shall be eligible to receive benefits for the waiting period of one week if he is entitled to benefits for each of the twelve consecutive weeks following his waiting period."

SECTION 2. Section 1(a) of this Act shall take effect on July 2, 1961 and shall apply only to benefit years beginning on or after such effective date.

SECTION 3. Section 1(b) of this Act shall take effect on January 1, 1962 and shall apply only to wages paid beginning on or after such effective date.

SECTION 4. Section 1(c) of this Act shall take effect upon its approval.

(Approved May 25, 1961.) **H.B. 160.**

## ACT 115

A Bill for an Act Amending Chapter 97, Revised Laws of Hawaii 1955, as Amended, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 97, Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending Section 97-52 thereof to read:

**"Sec. 97-52. Claim for compensation; limitation of time.** The right to compensation under this chapter shall be barred unless a written claim therefor is made to the director (a) within two years after the date of the injury, or, in case of death, within two years after the death, and (b) within five years after the date of the accident or occurrence which caused the injury. The foregoing limitations of time shall not apply to a claim for injury or disease caused by compressed air or due to occupational exposure to or contact with arsenic, benzol, beryllium zirconium, cadmium, chrome, lead or fluorine or to exposure to X-rays, radium, ionizing radiation or radioactive substances; provided that such claim shall be barred unless it is made to the director, in writing, within two years after knowledge that the injury or disease was proximately caused by the employment or resulted from the nature of the employment. The claim may be made by the person claiming compensation or by someone on his behalf, and

shall state in ordinary language the time, place, nature, and cause of the injury or disease."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1961.) **H.B. 281.**

## ACT 116

An Act to Amend Section 1-43 of the Revised Laws of Hawaii 1955, Relating to Holidays.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 1-43 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 1-43. Holidays designated.** The following days of each year are set apart and established as state holidays, to wit:

The first day of January,

The twenty-second day of February, to be known as Presidents' Day,

The twenty-sixth day of March, to be known as Kuhio Day,

The Friday preceding Easter Sunday, known as Good Friday,

The thirtieth day of May, to be known as Memorial Day,

The eleventh day of June, to be known as Kamehameha Day,

The fourth of July,

The first Monday in September, known as Labor Day,

The eleventh day of November, to be known as Veterans' Day,

The twenty-fifth day of December,

All election days, both primary and general, in the county wherein the election is held.

Any day designated by proclamation by the President of the United States as a day of thanksgiving, fasting or religious observance, or designated by proclamation by the governor of the State as a holiday.

If any of the State's legal holidays fall on Sunday, the following Monday shall be observed as a holiday. If such a day falls on Saturday and is also observed as a national holiday, the preceding Friday shall be observed as a holiday.

Whenever in the opinion of the governor, a public emergency exists, and it seems to him to be in the public interest, he may by proclamation designate and proclaim as legal banking holidays in the State such number of consecutive days as in his judgment the emergency may require. He may extend the same as he may deem advisable. The proclamation of bank holidays shall not relate to any business other than that of banking and kindred operations, nor as prohibiting, perforce, any voluntary conduct of banking business, in whole or in part, except to the extent declared in such proclamation or in any further proclamation in enlargement or modification thereof."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1961.) **S.B. 275.**



**ACT 117**

An Act Relating to Government Officers and Employees.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Every civil service employee or officer of any county or city and county heretofore transferred or appointed, or who may be transferred or appointed hereafter, to a civil service position as a consequence of the reorganization of any governmental department, board, commission or office or of any bureau, division or subdivision thereof, shall be continued as a civil service employee or officer, in the position to which he has been or may be transferred or appointed, without change in civil service status, reduction in salary range, loss of vacation or sick leave allowances, service credits or other rights and privileges and without the necessity of examination; provided, that such employee or officer possesses at the time of the transfer or appointment, the minimum qualification for the position to which he is transferred or appointed, provided further that subsequent changes in status may be made pursuant to applicable personnel laws.

SECTION 2. Every non-civil service employee or officer of any county or city and county heretofore transferred or appointed, or who may be transferred or appointed hereafter, to a civil service position as a consequence of the reorganization of any governmental department, board, commission or office or of any bureau, division or subdivision thereof, shall become a civil service employee as of the date of such transfer or appointment without loss of vacation or sick leave allowances, service credits or other rights and privileges and without the necessity of examination; provided, that such employee or officer possesses, at the time of the transfer or appointment, the minimum qualifications for the position to which he is transferred or appointed; provided further, that subsequent changes in status may be made pursuant to applicable personnel laws. This section shall not apply to provisional, temporary or contractual employees at the time of reorganization.

SECTION 3. This Act shall be retroactive to June 30, 1959 and shall take effect upon its approval.

(Approved May 25, 1961.) **S.B. 789.**

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**ACT 118**

A Bill for an Act Amending Chapter 94, Revised Laws of Hawaii 1955, as Amended, Relating to Wage and Hour.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 94-6, Revised Laws of Hawaii 1955, is hereby amended to read:

**“Sec. 94-6. Employer’s records; posting of notices; furnishing of pay data; director’s rights and duties.**

(1) Every employer shall keep in or about the premises wherein any employee is employed a record of the name, address and occupation of each such employee, of the amount paid each pay period to each such employee, of the hours worked each day and each workweek by each such employee, and of such other information and for such periods of time as the director may by regulation

prescribe. The director or his authorized representative shall for the purpose of examination have access to and the right to copy from such records. Every employer shall furnish to the director or his authorized representative such information relating to the employment of workers and in such manner as the director may prescribe.

(2) Every employer shall post and keep posted such notices pertaining to the application of the law as shall be prescribed by the director in conspicuous places in every establishment where any employee is employed so as to permit such employee to observe readily a copy on the way to or from his place of employment.

(3) Every employer shall furnish each employee at every pay period a legible printed, typewritten or handwritten notice showing the employee's (1) total hours worked, (2) overtime hours, (3) straight-time compensation, (4) overtime compensation, (5) other compensation, (6) total gross compensation, (7) amount and purpose of each deduction, (8) total net compensation, (9) date of payment and (10) pay period covered.

(4) The director shall cause this chapter to be printed and copies thereof shall be furnished to interested persons upon request without charge. Copies of orders of the director and of rules and regulations of the director shall also be furnished to employers affected thereby without charge."

SECTION 2. Subsection (3) of section 94-6 as enacted by section 1 of this Act shall take effect on January 1, 1962 and all other parts of this Act shall take effect upon its approval.

(Approved May 25, 1961.) **H.B. 279.**

## ACT 119

An Act Relating to Elections, by Amending Sections 11-41, 11-94 and 11-102 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-41 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding to the end thereof a new paragraph to read as follows:

"If a candidate withdraws his name later than 12 days before an election and the ballots are in the process of or have been printed and it becomes necessary in the opinion of the lieutenant governor or county clerk for a re-printing of the ballots or a striking out of the candidate's name by a re-print block-out, all expenses for such re-printing or for such striking out by a re-print block-out shall be a charge against the candidate who had requested the withdrawal and shall be paid by the candidate within 60 days after such withdrawal to the lieutenant governor or county clerk. Moneys received for the above purpose shall be deposited into the State or County Treasury, as the case may be, as a general realization. The foregoing shall not apply in case of a withdrawal necessitated for medical cause and so certified by a physician."

SECTION 2. Section 11-94 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the words "and in his legal name" after the word "behalf" appearing in the fourth line thereof.

SECTION 3. Section 11-102 of the Revised Laws of Hawaii 1955 is hereby amended by amending the first sentence thereof to read as follows:

## ACT 120

"The polls at primaries shall be opened by the inspectors at 7 o'clock on the morning of the election day and shall be kept open continuously until 5:30 o'clock in the evening of such day."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 29, 1961.) **S.B. 44.**

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## ACT 120

An Act Pertaining to Appeals to Circuit Court from the Land Court.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 342-34 of the Revised Laws of Hawaii 1955, is hereby amended by amending the first sentence of the second paragraph thereof to read as follows:

"Any party aggrieved by the decision of the court upon the facts involved in any cause, who desires a jury trial, may appeal to the circuit court sitting with a jury, in the circuit where the land or a portion thereof lies, upon filing notice of appeal and paying the fee therefor as prescribed by section 342-105, as amended, paying accrued costs, and depositing the cost of appeal as prescribed by section 219-5 as amended with the registrar of the land court within twenty days after the rendition of decision, provided that the registrar of the land court shall thereafter pay the cost of appeal deposited with him to the clerk of the circuit court."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1961.) **S.B. 573.**

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## ACT 121

A Bill for an Act Relating to Commercial Motor Vehicles, their Economic Regulation, Safety, Equipping, and Inspection Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Title of Act. This Act shall be known as "The Hawaii Motor Carrier Act".

SECTION 2. Title 13 of the Revised Laws of Hawaii 1955, is hereby amended by adding a new chapter thereto entitled "Motor Carrier Law" to be appropriately numbered and to read as follows:

### **"CHAPTER ..... MOTOR CARRIER LAW**

**Sec. -1. Declaration of Policy.** The Legislature of this State hereby recognizes and declares that the transportation of persons and of property, for commercial purposes, over the public highways of this State constitutes a business affected with the public interest. It is intended by this chapter to provide for fair and impartial regulation of such transportation in the interest of preserving for the public the full benefit and use of such highways consistent with the public safety and the needs of commerce; to promote safe, adequate, economical and efficient service and foster sound economic conditions in transportation and among the several carriers, to

encourage the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or unfair or destructive competitive practices. All of the provisions of this chapter shall be administered and enforced with a view to carrying out the above declaration of policy.

**Sec. -2. Administration:** Governing provisions of other acts. This chapter shall be administered by the public utilities commission of the State of Hawaii, and the provisions of this chapter and of chapter 104, Revised Laws of Hawaii 1955, as amended, not inconsistent with the provisions of this chapter shall govern its administration; provided, however, that section 104-3.5, section 104-8, section 104-10, section 104-15, section 104-16 through 104-25, and section 104-27, shall not, in any respect, apply to the regulation of motor carriers.

**Sec. -3. Application of chapter, interstate or foreign commerce.** Neither this chapter nor any provision hereof shall apply to commerce with foreign nations or to interstate commerce, except in so far as such application is permitted under the constitution and laws of the United States.

**Sec. -4. Definitions.** As used in this chapter.

(a) 'Chapter' means Motor Carrier Law.

(b) 'Commission' means the public utilities commission of the State of Hawaii.

(c) 'Person' or 'persons' means any individual, firm, copartnership, corporation, company, association or joint stock association; and includes any trustee, receiver, assignee or personal representative thereof.

(d) 'Certificate' means a certificate of public convenience and necessity issued under this chapter to common carriers by motor vehicle.

(e) 'Permit' means a permit issued under this chapter to contract carriers by motor vehicle.

(f) 'Transportation of persons' includes every service in connection with or incidental to the safety, comfort or convenience of persons transported and the receipt, carriage and delivery of such persons and their baggage.

(g) 'Transportation of property' includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, carriage, ventilation, refrigeration, icing, dunnage, storage in transit and handling.

(h) 'Motor vehicle' means any vehicle, machine, tractor, trailer, or semi-trailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the commission, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(i) 'Highway' means the roads, highways, streets and ways in this State.

(j) 'Rates' includes rates, fares, tolls, rentals and charges of whatever kind and nature unless the context indicates otherwise.

(k) 'Common carrier by motor vehicle' means any person which holds itself out to the general public to engage in the transportation by motor vehicle of passengers or property or any class or classes thereof for compensation.

(l) 'Contract carrier by motor vehicle' means any person which engages in transportation by motor vehicle of passengers or property for compensa-

tion (\*other than transportation referred to in subsection (k) under continuing contracts with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (b) for the furnishing of transportation services designed to meet the distinct need of each individual customer.

(m) 'Motor carrier' includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

(n) 'Private carrier of property by motor vehicle' means any person not included in the terms 'common carrier by motor vehicle' or 'contract carrier by motor vehicle', who or which transports by motor vehicle property of which such person is the owner, lessee or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in the furtherance of any commercial enterprise.

**Sec. -5. Exemptions.** Notwithstanding any other provisions of this chapter, its contents, save and except for the power of the commission to regulate safety of operations as provided for in sections.....-7(a) (1), (2), (3) and (6) of this chapter, shall not apply to:

(a) Persons transporting their own property where such transportation is in furtherance of a primary business purpose or enterprise of such person, except where such transportation is undertaken by a motor carrier to evade the regulatory purposes of this chapter.

(b) Persons operating motor vehicles under contract with the State or any political subdivision thereof in the transportation of school children and teachers to and from school or to and from school functions.

(c) Persons operating taxicabs or other motor vehicles utilized in performing a bona fide metered taxicab service. 'Taxicab' means and includes: (a) any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and (b) any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i. e., a fixed stand, in the city of Honolulu, as defined in section 149-2, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; provided that passengers may be picked up by telephone call from their homes in the rural area or may be unloaded at any point between such fixed stands or may be delivered to their homes in the rural area.

(d) Persons operating motor vehicles in the transportation of persons pursuant to a franchise from the legislature of this State and whose operations are presently regulated under the provisions of chapter 104, Revised Laws of Hawaii 1955, as amended.

(e) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members.

(f) Persons operating motor vehicles specially constructed for the towing of disabled or wrecked vehicles but not otherwise used in the transportation of property for compensation or hire.

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\* So in original. Closing parenthesis missing.

(g) Persons operating motor vehicles in the transportation of mail, newspapers, periodicals or magazines.

(h) Persons operating funeral cars or ambulances.

(i) Farmers who infrequently transport from the place of production to a warehouse, regular market, place of storage, or place of shipment, the farm products of neighboring farmers in exchange for like or reciprocal services, for farm products, or for a cash consideration not exceeding \$1,500 per year, and provided that such transportation shall constitute the sole transportation of property for hire or compensation of such farmers.

(j) Persons operating motor vehicles in the transportation of garbage or refuse.

(k) Persons operating the type of passenger carrying motor vehicles known as 'sampan buses' in and around the city of Hilo, Hawaii.

(l) Persons transporting unprocessed pineapple to a cannery and returning any containers used in such transportation to the fields.

(m) Sugar plantations transporting sugar cane, raw sugar, molasses, sugar by-products and farming supplies for neighboring farmers pursuant to contracts administered by the U. S. Department of Agriculture.

**Sec. -6. Certificate or permit required.** Except as provided in section .....-5, no person shall engage in the transportation of persons or property, for compensation or hire, by motor vehicle, over any public highway of this State unless there is in force with respect to such person a certificate or permit issued by the commission authorizing such transportation.

**Sec. -7. General duties and powers of the commission.** (a) (1) To regulate common carriers by motor vehicle, and to that end the commission shall establish reasonable requirements with respect to continuous and adequate service, leasing of motor vehicles, uniform system of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees and after public hearing shall promulgate within four months from the effective date of this chapter rules and regulations as to safety of operations and equipment which regulations shall be not less than those prescribed under the Motor Carrier Safety Regulations of the Interstate Commerce Commission where determined by the commission to be applicable to conditions existing in the State; provided, however, that the requirements for hours of service shall be in strict accordance with those prescribed by said Motor Carrier Safety Regulations.

(2) To regulate contract carriers by motor vehicle, and to that end the commission shall establish reasonable requirements with respect to leasing of motor vehicles, uniform system of accounts, records, and reports, preservation of records, qualifications and maximum hours of service of employees, and rules and regulations as to safety of operations and equipment which regulations shall be not less than those prescribed under the Motor Carrier Safety Regulations of the Interstate Commerce Commission where determined by the commission to be applicable to conditions existing in the State; provided, however, that the requirements for hours of service shall be in strict accordance with those prescribed by said Motor Carrier Safety Regulations.

(3) To establish for private carriers of property by motor vehicle and other persons and operations exempted under section .....-5 of this chapter reasonable requirements to promote safety of operations and equipment as provided in subsections (1) and (2) hereof. The term 'motor carrier' shall be

construed to include private carriers of property by motor vehicle and other persons and operations exempted under section .....-5 of this chapter, in the administration of sections .....-7(c), .....-23(e), .....-25, .....-29 and .....-34.

(4) To administer, execute, and enforce all provisions of this chapter, to make all necessary orders in connection therewith, and to prescribe rules, regulations, and procedures for such administration.

(5) For purposes of the administration of the provisions of this chapter, to inquire into the management of the business of motor carriers, and into the management of the business of persons controlling, controlled by, or under common control with, motor carriers to the extent that the business of such persons is related to the management of the business of one or more motor carriers, and the commission shall keep itself informed as to the manner and method in which the same are conducted, and may obtain from such carriers and persons such information as the commission deems necessary to carry out the provisions of this chapter.

(6) To review and approve all plans and specifications for the construction in the State or modification of motor vehicles which will at any time be operated upon the highway by common carriers, contract carriers or private carriers of property.

(b) The commission may from time to time establish such just and reasonable classifications of groups of carriers included in the terms 'common carrier by motor vehicle' or 'contract carrier by motor vehicle', as the special nature of the services performed by such carriers shall require; and such just and reasonable rules, regulations, and requirements, consistent with the provisions of this chapter, to be observed by the carriers so classified or grouped, as the commission deems necessary or desirable in the public interest.

(c) Upon complaint in writing to the commission by any person or body politic, or upon its own initiative without complaint, the commission may investigate whether any motor carrier has failed to comply with any provision of this chapter, or with any regulation, requirements, or order established or issued pursuant thereto. If the commission, after notice and hearing as prescribed in section .....-29, finds upon any such investigation that the motor carrier has failed to comply with any such provision, regulation, requirements, or order, the commission shall issue an appropriate order to compel the carrier to comply therewith. Whenever the commission is of opinion that any complaint does not state reasonable grounds for investigation and action on its part, it may dismiss such complaint.

**Sec. -8. Reports and decisions of commission.** (a) Whenever the commission shall inquire into the operations, operating rights, rates, safety of operations, or directs inquiry and investigation into motor carrier activities regulated under this chapter, and shall hold public hearing thereon, it shall be its duty to make a report in writing in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises.

(b) All reports issued under subsection (a) shall be entered of record, and a copy thereof shall be furnished to parties of record in any such proceeding.

(c) The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public in-

formation and use, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained in all courts of this State without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports.

**Sec. -9. Copies of schedules, tariffs, contracts, etc., kept as public records; evidence.** The copies of schedules and classifications and tariffs of rates, fares, and charges, and all contracts, agreements and arrangements between motor carriers filed with the commission as herein provided, and the statistics, tables, and figures contained in the annual or other reports of carriers made to the commission as required under the provisions of this chapter shall be preserved as public records in the custody of the commission (except any contract, agreement, or arrangement between a contract carrier by motor vehicle and a shipper shall only be made public as provided in section .....-23), and shall be received as prima facie evidence of what they purport to be for the purpose of investigations by the commission and in all judicial proceedings; and copies of and extracts from any of said schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records as aforesaid, certified by the commission under the commission's seal, shall be received in evidence with like effect as the originals.

**Sec. -10. Applications for certificates of public convenience and necessity.** (a) Except as otherwise provided in this section and in section .....-14, no common carrier by motor vehicle shall engage in operations on any public highway in this State, unless there is in force with respect to such carrier a certificate of public convenience and necessity issued by the commission authorizing such operation; provided, however, that, subject to section.....-13 if any such carrier or predecessor in interest was in bona fide operation as a common carrier by motor vehicle on June 27, 1959, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 27, 1959, during the season ordinarily covered by its operation and has so operated since that time except, in either instance, as to interruptions of service over which the applicant or its predecessor in interest had no control, the commission shall issue such certificate without requiring further proof that public convenience and necessity will be served by such operation, and without further proceedings, if application for such certificate is made to the commission as provided in subsection (b) of this section and within 90 days after this section shall take effect. Otherwise, the application for such certificate shall be decided in accordance with the procedure provided for in subsection (c) of this section and such certificate shall be issued or denied accordingly. Pending the determination of any such application, the continuance of such operation shall be lawful.

(b) Applications for certificates shall be made in writing to the commission, be verified under oath, and shall be in such form and contain such information and be accompanied by proof of service upon interested parties as the commission shall, by regulation, require.

(c) Subject to section.....-13, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the



commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied.

(d) Any certificate issued under this section covering the transportation of property shall be issued as an irregular route certificate and shall specify the island or islands or portion or portions thereof within which service may be rendered. Any certificate covering the transportation of passengers shall specify the service to be rendered and the routes over which, the fixed termini, if any, between which, and the intermediate and off-route points, if any, at which the motor carrier is authorized to operate and such certificate may include authority to transport in the same vehicle with the passengers baggage of passengers, express, and also to transport baggage of passengers in a separate vehicle. There shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions and limitations as the public convenience and necessity may from time to time require, including terms conditions, and limitations as to the extensions of the service territory or route or routes of the carriers, and such terms and conditions as are necessary to carry out, with respect to the operations of the carrier, the requirements established by the commission under sections.....-7(a) (1) and .....-7(a) (4), provided, however, that the terms, conditions, or limitations shall not restrict the right of the carrier to add to his or its equipment and facilities in the service territory or over the routes or between the termini as the development of business and the demands of the public shall require.

(e) Any common carrier by motor vehicle transporting passengers under any such certificate may occasionally deviate from the route over which and the fixed termini between which it is authorized to operate under the certificate under such rules and regulations as the commission may prescribe.

**Sec. -11. Permits for contract carriers by motor vehicle.** (a) Except as otherwise provided in this section and in section.....-14, no person shall engage in the business of a contract carrier by motor vehicle over any public highway in this State unless there is in force with respect to such carrier a permit issued by the commission authorizing such person to engage in such business; provided, that, subject to section.....-13, if any such carrier or predecessor in interest was in bona fide operation as a contract carrier by motor vehicle on June 27, 1959, over the route or routes or within the territory for which application is made and has so operated since that time, or if engaged in furnishing seasonal service only, was in bona fide operation on June 27, 1959, during the season ordinarily covered by its operations, except in either instance as to interruptions of service over which the applicant or its predecessor in interest had no control, the commission shall issue such permit without further proceedings, if application for such permit is made to the commission as provided in subsection (b) of this section and within 90 days after this section shall take effect. Otherwise, the application for such permit shall be decided in accordance with the procedure provided for in subsection (c) of this section and such permit shall be issued or denied accordingly. Pending the determination of any such application the continuance of such operation shall be lawful.

(b) Applications for permits shall be made in writing to the commission, be verified under oath, and shall be in such form and contain such informa-

tion and be accompanied by proof of service upon interested parties, as the commission shall, by regulation, require.

(c) Subject to section.....-13, a permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle, and to conform to the provisions of this chapter and the lawful requirements, rules, and regulations of the commission thereunder, and that the proposed operation to the extent authorized by the permit will be consistent with the public interest and the transportation policy declared in this chapter; otherwise, such application shall be denied. In determining whether issuance of a permit will be consistent with the public interest and said transportation policy, the commission shall consider the number of shippers to be served by the applicant, the nature of the service proposed, whether the proposed service can be or is being properly performed by existing common carriers, the effect which granting the permit would have upon the services of the protesting carriers, the effect which denying the permit would have upon the applicant and its shipper or shippers, and the changing character of shipper requirements. The commission shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and it shall attach to it at the time of issuance, and from time to time thereafter, such reasonable terms, conditions and limitations consistent with the character of the holder of the permit as a contract carrier, including terms, conditions, and limitations respecting the person or persons, their names, the number or class thereof for which the contract carrier may perform transportation service, as may be necessary to assure that the business is that of a contract carrier and within the scope of the permit, and to carry out with respect to the operation of such carrier the requirements established by the commission under section.....-7(a) (2) and .....-7(a) (4). Any permit covering the transportation of passengers may include authority to transport in the same vehicle with the passengers, baggage of passengers, and also authority to transport baggage of passengers in a separate vehicle; provided, that within the scope of the permit and any terms, conditions, or limitations attached thereto, the carrier shall have the right to substitute or add to its equipment and facilities as the development of its business may require; and provided further that no motor carrier shall commence operations under any contract carrier authority granted under the provisions of this section until it has filed with the commission a certified copy of a written contract or contracts executed with the shipper or shippers for whom the service is authorized in the permit to be provided, said contract or contracts to be bilateral and impose specific obligations upon both carrier and shipper or shippers and to set forth all terms and conditions of any transportation agreement obtaining between the motor carrier and the shipper or shippers.

**Sec. -12. No proprietary right in highway.** No certificate or permit issued under this chapter shall confer any proprietary or property right in the use of the public highways.

**Sec. -13. Dual operation.** Unless, for good cause shown, the commission shall find or shall have found that both a certificate and a permit may be so held consistently with the public interest and with the declaration of policy declared in this chapter.

(a) No person, or any person controlling, controlled by, or under common control with such person, shall hold a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle within a territory if such person or any such controlling person, controlled person, or person under common control, holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle within the same territory ; and

(b) No person or any person controlling, controlled by, or under common control with such person, shall hold a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle within a territory, if such person or any such controlling person, controlled person, or person under common control, holds a certificate as a common carrier authorizing operation for the transportation of property by motor vehicle within the same territory.

(c) Notwithstanding any other provisions of this section, any common carrier by motor vehicle may continue to provide transportation services in compliance with the terms of any contract in effect on July 1, 1961, and continuously in effect since that time, without being in violation of this section for a period of 12 months after the date this section becomes effective, provided a copy of such contract is filed with the commission within 30 days of the effective date of this chapter.

**Sec. -14. Temporary authority.** To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier or a contract carrier by motor vehicle, as the case may be. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify, but for no more than a period of 120 days for any one immediate and urgent need ; provided, however, that if an application for a certificate of public convenience and necessity or a permit seeking corresponding permanent authority is filed in accordance with applicable laws, regulations and instructions not later than 30 days after the issuance of temporary authority, then in such event the commission may determine upon its own motion, or upon motion or upon request by any interested party, whether any temporary operating authority granted under the provisions of this section shall be continued in force beyond the expiration date specified therein, and until the determination of the application filed by the holder of such temporary operating authority for a certificate of public convenience and necessity or a permit to engage in operations authorized by such temporary operating authority.

**Sec. -15. Security for protection of public.** No certificate or permit shall be issued to a motor carrier or remain in force unless such carrier complies with such reasonable rules and regulations as the commission shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amounts as the commission may require, conditioned to pay within the amount of such surety agreements moneys finally recovered against such motor carrier for bodily injuries to or the death of any person resulting from the negligent operation, maintenance, or use of motor vehicles under such certificate, or permit or for loss or damage to property of

others. The commission may, in its discretion and under such rules and regulations as it shall prescribe, require any such carrier to file a surety bond, policies of insurance, qualifications as a self-insurer, or other securities or agreements in a sum to be determined by the commission to be conditioned upon such carrier making compensation to shippers or consignees for all property belonging to shippers or consignees, and coming into the possession of such carrier in connection with its transportation service. Any common carrier which may be required by law to compensate a shipper or consignee for any loss, damage, or default for which a connecting motor common carrier is legally responsible shall be subrogated to the rights of such shipper or consignee under any such bond, policies of insurance, or other securities or agreements, to the extent of the sum so paid.

**Sec. -16. Transfer of certificates of public convenience and necessity, contract carrier permits, and carrier property.** (a) For a period of 12 calendar months following the month in which this chapter becomes effective, no motor carrier may, directly or indirectly, sell, lease, assign, or otherwise dispose of, any certificate of public convenience and necessity or permit issued under this chapter, or of any property necessary or useful in the performance of its duties to the public, to any carrier or person employed by, affiliated with, or owning or controlling, directly or indirectly, an interest in any such carrier; nor during such period may any motor carrier or person employed by, affiliated with, or owning or controlling, directly or indirectly, an interest in any such motor carrier, directly or indirectly, transfer or cause to be transferred any interest in any motor carrier to any carrier or person employed by, affiliated with, or owning or controlling, directly or indirectly, an interest in any such carrier.

(b) Subsection (a) is enacted in the interest of stabilizing transportation conditions in this State and of preserving sound economic conditions within the transportation industry. For the purpose of the prohibition provided in subsection (a) and of the administration and application of subsections (b) and (c), the term 'carrier' shall be deemed to include any motor carrier subject to this chapter, or any carrier subject to the act of any other state or any act of the Congress of the United States under which interstate or foreign commerce by land, sea, or air, is regulated. Any person who has been employed by any such carrier within a period of six months preceding the date of any transaction otherwise falling within the provisions of this prohibition or who within such period shall have had an interest in any such carrier, by any means whatsoever, shall be deemed to be a person employed by, affiliated with, or owning or controlling, directly or indirectly, an interest in such carrier.

(c) No motor carrier shall sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its property necessary or useful in the performance of transportation services for the public or any certificate of public convenience and necessity or permit; nor, shall any motor carrier, by any means whatsoever, directly or indirectly, merge or consolidate its property, certificates of public convenience and necessity or permits, or any part thereof, with any other carrier, without first having secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with the order of the commission authorizing the same is void.

(d) No carrier or person in control of a carrier shall, either directly or indirectly, purchase or acquire, take or hold, any part of the capital stock of any motor carrier organized or existing under or by virtue of the laws of this State without having been first authorized to do so by the commission. Every assignment, transfer of any stock by or through any person to any person, or otherwise, in violation of any of the provisions of this section is void and of no effect, and no such transfer shall be made on the books of any motor carrier. Nothing herein contained shall prevent the holding of stock heretofore lawfully acquired.

(e) Whenever a transaction is proposed under subsections (c) or (d) of this section, the motor carrier or motor carriers, or person or persons, seeking approval thereof shall present an application to the commission in such form as the commission may require and the commission may thereupon act upon such application with or without first holding a public hearing; provided, however, that if requested, it shall afford reasonable opportunity for interested parties to be heard. If the commission finds that subject to such terms and conditions as it shall find to be just and reasonable the proposed transaction will be consistent with the public interests, the commission shall enter an order approving and authorizing such transaction, upon the terms and conditions, and with such modifications, so found to be just and reasonable. In passing upon any transaction under the provisions of subsections (c) or (d), the commission shall give weight, among other considerations, to the effect of the proposed transaction upon (1) adequate transportation service to the public, (2) other motor carriers, and (3) the employees of any transferring motor carrier.

(f) Nothing in this section shall be construed to require a motor carrier to secure from the commission authority to lease motor vehicle equipment from another motor carrier for the purpose of meeting the requirements of transportation, to execute any conditional sales contract for the purchase of motor vehicle equipment or any note and chattel mortgage on motor vehicle equipment securing the payment of all or any part of the purchase price of motor vehicle equipment; nor shall the provisions of this section prevent the sale, lease, encumbrance or other disposition by any motor carrier of property which is not necessary or useful in the performance of its duties to the public, and any disposition of property by a motor carrier shall be conclusively presumed to be property which is not necessary or useful in the performance of its duties to the public as to any purchaser, lessee, or encumbrancer dealing with such property in good faith and for value.

(g) Pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of two or more motor carriers, or of a purchase, lease, or contract to operate the properties of one or more motor carriers, the commission may, in its discretion and without hearings or other proceedings, grant temporary approval, for a period not exceeding 120 days or for such additional period as the determination of an application may require, of the operation of the motor carrier properties sought to be acquired by the persons proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in destruction of or injury to such motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

**Sec. -17. Suspension, change and revocation of certificates and permits.** Certificates and permits shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any such certificate or permit may, upon application of the holder thereof, in the discretion of the commission, be amended or revoked, in whole or in part, or may upon complaint, or on the commission's own initiative, after notice and hearing, be suspended, changed or revoked, in whole or in part, for willful failure to comply with any provision of this chapter, or with any lawful order, rule, or regulation of the commission promulgated thereunder, or with any term, condition or limitation of such certificate or permit; provided, however, that no such certificate or permit shall be revoked (except upon application of the holder) unless the holder thereof willfully fails to comply within a reasonable time, not less than 30 days, to be fixed by the commission, with a lawful order of the commission, made as provided in section.....-7(c), commanding obedience to the provision of this chapter, or to the rule or regulation of the commission thereunder, or to the term, condition, or limitation of such certificate or permit, found by the commission to have been violated by such holder; and provided further that the right to engage in transportation by virtue of any certificate or permit, or any application filed pursuant to the provisions of sections .....-10 or .....-11, or by virtue of temporary authority under section .....-14, may be suspended by the commission, upon reasonable notice of not less than 15 days to the carrier, but without hearing or other proceedings, for failure to comply, and until compliance, with the provisions of section .....-19(a) or .....-20(a), or with any lawful order, rule, or regulation of the commission promulgated thereunder.

**Sec. -18. Rates, fares and charges of common carriers by motor vehicle.** (a) It shall be the duty of every common carrier of passengers by motor carrier to provide safe and adequate service, equipment, and facilities for the transportation of passengers and to establish, observe, and enforce just and reasonable rates, fares, and charges and just and reasonable regulations and practices relating thereto, and to the issuance, form, and substance of tickets, the carrying of personal, sample, and excess baggage, the facilities for transportation and all other matters relating to or connected with the transportation of passengers.

(b) It shall be the duty of every common carrier of property by motor vehicle to provide safe and adequate service, equipment, and facilities for the transportation of property and to establish, observe, and enforce just and reasonable rates, charges, and classifications, and just and reasonable regulations and practices relating thereto, and to the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, and all other matters relating to or connected with the transportation of property.

(c) All charges made for any service rendered by any common carrier by motor vehicle in the transportation of passengers or property or in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful. It shall be unlawful for any common carrier by motor vehicle to make, give, or cause any undue or unreasonable preference or advantage to any particular person, locality, region, district, island or description of traffic, in any respect whatsoever; or to subject any particular per-

son, locality, region, district, island, or description of traffic to any unjust discrimination or undue or unreasonable prejudice or disadvantage in any respect whatsoever; provided, however, that this subsection shall not be construed to apply to discrimination, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

(d) Any person, organization, or body politic may make complaint in writing to the commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section or of section .....-19. Whenever, after hearing, upon complaint or in an investigation of its own initiative, the commission shall be of the opinion that any individual rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by motor vehicle for transportation, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective.

(e) Whenever there shall be filed with the commission any schedule stating a new rate, fare, charge, or classification for the transportation of passengers or property by a common carrier or carriers by motor vehicle, or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the commission is hereby authorized and empowered upon complaint of any interested person or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the commission, by filing such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, but not for a longer period than 5 months beyond the time when it would otherwise go into effect, and after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed changed rate, fare, or charge, or classification, rule, regulation, or practice, shall go into effect at the end of such period; provided that this subsection shall not apply to any initial schedule or schedules filed by any carrier in bona fide operation when this section takes effect. At any hearing involving a change in a rate, fare, charge, or classification, or in a rule, regulations, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice, is just and reasonable.

(f) In any proceeding to determine the justness of reasonableness of any rate, fare, or charge of any such carrier, there shall not be taken into consideration or allowed as evidence or elements of value of the property of

such carrier, either good will, earning power, or the certificate under which such carrier is operating; and in applying for and receiving a certificate under this part any such carrier shall be deemed to have agreed to the provisions of this subsection on its own behalf and on behalf of all transferees of such certificate.

(g) In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or property by common carriers by motor vehicle, and classifications, regulations, and practices relating thereto, the commission shall give due consideration, among other factors, to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable such carriers, under honest, economical, and efficient management, to provide such service.

(h) Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith.

**Sec. -19. Tariffs of common carriers by motor vehicle.** (a) Every common carrier by motor vehicle shall file with the commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property. Such rates, fares, and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed, and posted in such form and manner, and shall contain such information as the commission by regulations shall prescribe; and the commission is authorized to reject any tariff filed with it which is not in consonance with this section and with such regulations. Any tariff so rejected by the commission shall be void and its use shall be unlawful.

(b) No common carrier by motor vehicle shall charge or demand or collect or receive a greater or less or different compensation for transportation or for any service in connection therewith between the points enumerated in such tariff than the rates, fares, and charges specified in the tariffs in effect at the time; and no such carrier shall refund or remit in any manner or by any device, directly or indirectly, or through any agent, or otherwise, any portion of the rates, fares, or charges so specified, or extend to any person any privileges or facilities for transportation except such as are specified in its tariffs.

(c) No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting such rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a common carrier by motor vehicle; except after 30 days' notice of the proposed change filed and posted in accordance with subsection (a) of this section. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. The commission may, in its discretion and for good cause shown allow such change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(d) No common carrier by motor vehicle shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by said carrier have been filed and published in accordance with the provisions of this chapter.



**Sec. -20. Schedules of contract carriers by motor vehicle.** (a) It shall be the duty of every contract carrier by motor vehicle to file and observe reasonable minimum rates and charges for any service rendered or to be rendered in the transportation of passengers or property in connection therewith, and to file and observe reasonable regulations and practices to be applied in connection with said reasonable minimum rates, fares, and charges. It shall be the duty of every contract carrier by motor vehicle to file with the commission, publish, and keep open for public inspection, in the form and manner prescribed by the commission, schedules containing the actual rates or charges of such carrier for the transportation of passengers or property, and any rule, regulation, or practice affecting such rates or charges and the value of the service thereunder; provided that any contract carrier serving but one shipper having rendered continuous service to such shipper for not less than one year may file reasonable minimum rates and charges unless the commission in any individual case, after hearing, finds it in the public interest to require the filing of actual rates and charges. No such contract carrier, unless otherwise provided by this chapter, shall engage in the transportation of passengers or property unless the actual rates or charges for such transportation by said carrier have been published, filed, and posted in accordance with the provisions of this chapter. Nothing herein provided shall be so construed as to require such carriers to maintain the same rates, rules and regulations for the same services for all shippers served. No reduction shall be made in any such charge either directly or by means of any change in any rule, regulation, or practice affecting such charge or the value of the service thereunder, nor shall any new charge be permitted, except after 30 days' notice of the proposed change or new charge is filed in the aforesaid form and manner; but the commission may, in its discretion and for good cause shown, allow such change upon less notice, or modify the requirements of this subsection with respect to posting and filing of such schedules, either in particular instances, or by general order applicable to special or peculiar circumstances or conditions. Such notice shall plainly state the change proposed to be made and the time when such change will take effect. No such carriers shall demand, charge, or collect compensation for such transportation different from the charges filed in accordance with this subsection, as affected by any rule, regulation, or practice so filed, or less than the minimum rate or charge as may be prescribed by the commission from time to time, and it shall be unlawful for any such carrier, by the furnishing of special services, facilities, or privileges, or by any other device whatsoever, to charge, accept, or receive compensation different from the actual rates and charges so filed, or less than the minimum charges so prescribed; provided that any such carrier or carriers, or any class or group thereof, may apply to the commission for relief from the provisions of this subsection, and the commission may, after hearing, grant such relief to such extent and for such time, and in such manner as in its judgment is consistent with the public interest and the transportation policy declared in this chapter.

(b) Whenever, after hearing, upon complaint or upon its own initiative, the commission finds that any minimum rate or charge of any contract carrier by motor vehicle, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder, for the transportation of passengers or property or in connection

therewith, contravenes the transportation policy declared in this chapter, or is in contravention of any provision of this chapter, the commission may prescribe such just and reasonable minimum rate or charge, or such rule, regulations, or practice as in its judgment may be necessary or desirable in the public interest and to promote such policy and will not be in contravention of any provision of this chapter. Such minimum rate or charge, or such rule, regulation, or practice, so prescribed by the commission, shall give no advantage or preference to any such carrier in competition with any common carrier by motor vehicle subject to this chapter, which the commission may find to be undue or inconsistent with the public interest and the transportation policy declared in this chapter and the commission shall give due consideration to the cost of the services rendered by such carriers, and to the effect of such minimum rate or charge, or such rule, regulation, or practice, upon the movement of traffic by such carriers. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath.

(c) Whenever there shall be filed with the commission by any such contract carrier any schedule stating a charge for a new service or a reduced charge directly, or by means of any rule, regulation, or practice, for the transportation of passengers or property, the commission is hereby authorized and empowered upon complaint of interested persons or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested party, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the commission, by filing with such schedules and delivering to the carrier affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such charge, or such rule, regulation, or practice, but not for a longer period than 5 months beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the charge, or rule, regulation, or practice goes into effect, the commission may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change in any charge or rule, regulation, or practice shall go into effect at the end of such period; provided that this subsection shall not apply to any initial schedule or schedules filed by any such carrier in bona fide operation when this section takes effect. The rule as to burden of proof specified in section .....-18(e) shall apply to this subsection.

**Sec. -21. Bills of lading, shipping documents.** The commission may prescribe for motor carriers the form and content of all bills of lading, freight bills, receipts, or other shipping documents governing the movement of traffic by motor carriers regulated under this chapter, and may prescribe the length of time the same shall be preserved.

**Sec. -22. Recovery of overcharges or undercharges.** (a) All actions at law by common carriers by motor vehicle for the recovery of their charges, or any part thereof, shall be begun within 3 years from the time the cause of action accrues, and not after.

(b) For recovery of overcharges, actions at law shall be begun within 3 years from the time the cause of action accrues, and not after, subject

to subsection (c) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the 3 year period of limitation said period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

(c) If on or before the expiration of the 3 year period of limitation in subsection (b) a common carrier by motor vehicle begins action under subsection (a) for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, said period shall be extended to include 90 days from the time such action is begun or such charges are collected by the carrier.

(d) The cause of action in respect of a shipment of property shall, for the purpose of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(e) The term 'overcharges' as used in this section shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the commission.

(f) The provisions of this section shall apply only to cases in which the cause of action may accrue after the date this chapter becomes effective.

**Sec. -23. Accounts, records and reports.** (a) The commission is hereby authorized to require annual, periodical, or special reports from all motor carriers; to prescribe the manner and form in which such reports shall be made; and to require from such carriers specific and full, true, and correct answers to all questions upon which the commission may deem information to be necessary. Such annual reports shall give an account of the affairs of the carrier in such form and detail as may be prescribed by the commission. The commission may also require any motor carrier to file with it a true copy of any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to any traffic affected by the provisions of this chapter. The commission shall not, however, make public any contract, agreement, or arrangement between a contract carrier by motor vehicle and a shipper, or any of the terms or conditions thereof, except as a part of the record in a formal proceeding where it considers such action consistent with the public interest; provided that if it appears from an examination of any such contract that it fails to conform to the published schedule of the contract carrier by motor vehicle as required by section .....-20 (a), the commission may, in its discretion, make public such of the provisions of the contract as the commission considers necessary to disclose such failure and the extent thereof.

(b) Said annual reports shall contain all the required information for the period of 12 months ending on the thirty-first day of December in each year, unless the commission shall specify a different date, and shall be made out under oath and filed with the commission within three months after the close of the year for which the report is made, unless additional time be granted in any case by the commission. Such periodical or special reports as may be required by the commission under subsection (a) hereof shall also be under oath, whenever the commission so requires.

(c) The commission may prescribe for motor carriers the classes of property for which depreciation charges may properly be included under operating expenses, and the rate or rates of depreciation which shall be charged with respect to each of such classes of property, classifying the

carriers as it may deem proper for this purpose. The commission may, when it deems necessary, modify the classes and rates so prescribed. When the commission shall have exercised its authority under the foregoing provisions of this subsection, motor carriers shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the commission, or charge with respect to any class of property a rate of depreciation other than that prescribed therefor by the commission, and no such carrier shall include under operating expenses any depreciation charge in any form whatsoever other than as prescribed by the commission.

(d) The commission may, in its discretion, prescribe the forms of any and all accounts, records, and memoranda to be kept by motor carriers, and lessors, including the accounts, records, and memoranda of the movement of traffic, as well as of the receipts and expenditures of moneys. The commission may issue orders specifying such operating, accounting, or financial papers, records, books, blanks, tickets, stubs, correspondence, or documents of motor carriers, or lessors as may after a reasonable time be destroyed, and prescribing the length of time the same shall be preserved. The commission or its duly authorized special agents, accountants, or examiners shall at all times have access to and authority, under its order, to inspect and examine any and all lands, buildings or equipment of motor carriers and lessors and shall have authority to inspect and copy any and all accounts, books, records, memoranda, correspondence, and other documents of such carriers and lessors (as defined in this section), and such accounts, books, records, memoranda, correspondence, and other documents of any person controlling, controlled by, or under common control with any such carriers, as the commission deems relevant to such person's relation to or transaction with such carriers. Motor carriers, lessors and aforesaid persons shall submit their accounts, books, records, memoranda, correspondence and other documents for the inspection and copying authorized by this subsection, and motor carriers and lessors shall submit their lands, buildings and equipment for examination and inspection, to any duly authorized special agent, accountant, or examiner of the commission upon demand and display of proper credentials. As used in this subsection, the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained; the term 'lessor' means a lessor of any right to operate as a motor carrier; and the term 'motor carrier' or 'lessor' includes a receiver or trustee of any such motor carrier or lessor.

(e) No report by any motor carrier of any accident arising in the course of the operations of such carriers, made pursuant to any requirement of the commission, and no report by the commission of any investigation of any such accident, shall be admitted as evidence, or used for any other purpose, in any suit or action for damages growing out of any matter mentioned in such report or investigation.

**Sec. -24. Records to be maintained in State.** Each motor carrier maintaining an office or place of business within this State shall keep therein all books, accounts, papers and records required by the commission to be kept within this State. No such books, accounts, papers, or records shall be at any time removed from the State except upon such conditions or rules as the commission may prescribe. Motor carriers performing transportation regulated under this chapter which do not maintain an office or place of

business within the State shall make books, accounts, papers and records pertaining to such transportation available to the commission at its request at a place designated within this State, for examination by the commission, or in the alternative reimburse the commission for the actual expense of examining such books, accounts, papers, or records at the place outside of the State where such records are kept.

**Sec. -25. Unlawful operation.** (a) Any person knowingly and willfully violating any provision of this chapter, or any rule, regulation, requirement, or order thereunder, or any term or condition of any certificate or permit for which a penalty is not otherwise herein provided, shall be guilty of a misdemeanor and upon conviction thereof, be fined not less than \$100 nor more than \$500 for the first offense and not less than \$200 nor more than \$500 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) Any person, whether carrier, shipper, or consignee, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession or discrimination in violation of any provisions of this chapter, or who by means of any false statement or representation or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, shall knowingly and willfully assist, suffer, or permit any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, or who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers, shall be deemed guilty of a misdemeanor and upon conviction thereof be fined not less than \$200 nor more than \$500 for the first offense and not less than \$250 nor more than \$2000 for any subsequent offense.

(c) Any special agent, accountant, or examiner who knowingly and willfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of sections .....7(a) (5), .....-21 and .....-23, except as he may be directed by the commission or by a court or judge thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$500 or imprisonment for not exceeding six months, or both.

(d) It shall be unlawful for any motor carrier or any officer, receiver, trustee, lessee, agent, or employee of such carrier, or for any other person authorized by such carrier or person to receive information, knowingly to disclose to, or permit to be acquired by any person other than the shipper or consignee without the consent of such shipper or consignee, any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to such motor carrier for such transportation, which information may be used to the detriment or prejudice of such shipper or consignee, or which may improperly disclose his business transactions to a competitor; and it shall also be unlawful for any person to solicit or knowingly receive any such information which may be so used.

(e) Nothing in this chapter shall be construed to prevent the giving of such information in response to any legal process issued under the authority of any court, or to any officer or agent of the government of the United States or of any state thereof or of any political sub-division of any state,

in the exercise of his power or to any officer or other duly authorized person seeking such information for the prosecution of persons charged with or suspected of crimes or to another carrier, or its duly authorized agents, for the purpose of adjusting mutual traffic accounts in the ordinary course of business of such carriers.

(f) Any motor carrier or any officer, agent, employee, or representative thereof, who shall willfully fail or refuse to make a report to the commission as required by this chapter, or to make specific and full, true, and correct answer to any question within 30 days from the time it is lawfully required by the commission so to do, or to keep accounts, records, and memoranda in the form and manner prescribed by the commission, or shall knowingly and willfully falsify, destroy, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file with the commission any false report, account, record or memorandum, or shall knowingly and willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the carrier, or person required under this chapter to keep the same, or shall knowingly and willfully keep any accounts, records, or memoranda contrary to the rules, regulations, or orders of the commission with respect thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof be subject for each offense to a fine of not more than \$2,000. As used in this subsection, the words 'keep' and 'kept' shall be construed to mean made, prepared, or compiled, as well as retained.

(g) Any motor carrier or lessor, or any officer, agent, employee, or representative thereof, who shall fail or refuse to keep, preserve, or forward any account, record, or memorandum in the substance, form, or manner prescribed in this chapter or in any rule, order, or regulation prescribed under this chapter, or who shall fail or refuse to comply with any requirement of this chapter with respect to the filing with this commission, as prescribed by it, any annual periodical, or special report, or other report, tariff, schedule, contract, document, or data or with any rule, order or regulation prescribed with respect to such filing, or who shall fail or refuse to make full, true, or correct answer to any question required by the commission to be made under the provisions of this chapter, shall pay a penalty to the State of Hawaii in the sum of \$100 for each such offense, and, in the case of a continuing violation, not to exceed \$50 for each additional day during which such failure or refusal shall continue. A penalty shall become due and payable when the person incurring it receives a notice in writing reasonably describing the violation and advising that the penalty is due. The commission may, upon written application therefor received within 15 days, remit or mitigate any such penalty upon such terms as it deems proper, and shall ascertain the facts involved in such application in the manner it deems proper. If the amount of a penalty is not paid to the commission within 15 days after receipt of the notice imposing it, or within 15 days after the violator has received notice of the disposition of his application for remission or mitigation, the attorney general shall bring a civil action for the recovery of such penalty. All penalties provided for in this section shall be paid into the treasury of the State of Hawaii.

**Sec. -26. Collection of rates and charges.** No common carrier by motor vehicle shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid, except under such rules and regulations as the commission may from time to time pre-

scribe to govern the settlement of all such rates and charges, including rules and regulations for weekly or monthly settlement, and to prevent unjust discrimination or undue preference or prejudice; provided that the provisions of this section shall not be construed to prohibit any such carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any state or political subdivision thereof.

**Sec. -27. Identification of carriers.** The commission is hereby authorized, under such rules and regulations as it shall prescribe, to require the display of suitable identification plate or plates, upon any motor vehicle used in transportation subject to any of the provisions of this chapter, to provide for the issuance of such plates, and to receive the payment of such carriers of the reasonable cost thereof. All moneys so collected shall be paid into the treasury of the State of Hawaii. Any substitution, transfer, or use of any such identification plate or plates, except such as may be duly authorized by the commission, is hereby prohibited and shall be unlawful.

**Sec. -28. Allowances to shippers for transportation services.** If the shipper of property transported under this chapter, directly or indirectly, renders any service connected with such transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this chapter and shall be no more than is just and reasonable; and the commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order.

**Sec. -29. Hearings.** (a) All hearings, investigations, and proceedings shall be governed by this section and by rules of practice and procedure adopted by the commission, and in the conduct thereof, the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding, or in the manner of taking testimony shall invalidate any order, decision or rule made, approved, or confirmed by the commission.

(b) Complaints may be made, in writing, by the commission on its own motion or by any person or body politic, setting forth any act or thing done, or omitted to be done by any motor carrier, including any rule, regulation, rate, or charge, heretofore established or fixed by or for any motor carrier, in violation or claimed to be in violation, of any provision of law or of any order or rule of the commission.

(c) All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties. In any review by the courts of orders or decisions of the commission the same rule shall apply with regard to the joinder of causes and parties as herein provided. The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.

(d) Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or motor carrier complained of. Service in all hearings, investigations, and proceedings pending before the commission may be made upon any person upon whom a summons may be served in any proceeding before the courts of this State, and may be made personally or by mailing in a sealed envelope, registered or certified, with postage prepaid. The com-

mission shall fix the time when and place where a hearing will be had upon the complaint and shall serve notice thereof, not less than 10 days before the time set for such hearing, unless the commission finds that public necessity requires that such hearing be held at an earlier date.

(e) At the time fixed for any hearing before the commission or the time to which the hearing has been continued, the complainant and the person complained of, and such persons as the commission allows to intervene, shall be entitled to be heard and to introduce evidence. The commission shall issue process to enforce the attendance of all necessary witnesses. After the conclusion of the hearing, the commission shall make and file its order, containing its decision which shall be based on findings of fact and conclusions of law therein stated. A copy of each order, certified under the seal of the commission, shall be served upon the person complained of, or his attorney. The order shall, of its own force, take effect and become operative 20 days after the service thereof, except as otherwise provided, and shall continue in force either for a period designated in it or until changed or abrogated by the commission. If the commission believes that an order cannot be complied with within 20 days, it may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may on application and for good cause shown, extend the time for compliance fixed in its order.

(f) A complete record of all proceedings and testimony before the commission on any formal hearing shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review an order or decision of the commission, a transcript of such testimony, together with all exhibits or copies thereof introduced, and of the pleadings, records, and proceedings in the cause, shall constitute the record of the commission, but if the party or parties to the proceeding and the commission stipulate that certain questions alone and a specified portion only of the evidence shall be certified to the supreme court for its judgment, such stipulation and the questions and evidence therein specified shall constitute the record on review.

(g) Any motor carrier may complain on any of the grounds upon which complaints are allowed to be filed by other parties, and the same procedure shall be adopted and followed as in other cases, except that the complaint may be heard ex parte by the commission or may be served upon any party designated by the commission.

(h) The commission may at any time upon notice to the motor carrier affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter, or amend any order or decision made by it. Any order rescinding, altering, or amending a prior order or decision shall, when served upon the motor carrier affected, have the same effect as an original order or decision.

(i) In all collateral actions or proceedings, the orders and decisions of the commission which have become final shall be conclusive.

**Sec. -30. Reconsideration and rehearings.** (a) After any order or decision has been made by the commission, any party to the action or proceeding may apply for reconsideration or a rehearing in respect to any matters determined in the action or proceeding and specified in the application for reconsideration or rehearing. The commission may grant such application if in its judgment sufficient reason is made to appear. No appeal shall be taken from any order or decision of the commission before an application for reconsideration or rehearing shall have been filed with and determined by the commission.



(b) The application for reconsideration or a rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful. No person shall in any court urge or rely on any ground not so set forth in the application.

(c) Any application for reconsideration or a rehearing made 10 days or more before the effective date of the order as to which reconsideration or a rehearing is sought, shall be either granted or denied before the effective date, or the order shall stand suspended until the application is granted or denied. Any application for reconsideration or a rehearing made within less than 10 days before the effective date of the order as to which reconsideration or rehearing is sought, and not granted within 20 days, may be taken by the party making the application to be denied, unless the effective date of the order is extended for a period of the pendency of the application.

(d) If any application for reconsideration or rehearing is granted without a suspension of the order involved, the commission shall forthwith proceed to determine the matter with all dispatch and shall determine the matter within 20 days after final submission. If no determination is made within that time, it may be taken by any party to the proceeding that the order involved is affirmed.

(e) An application for reconsideration or rehearing shall not excuse any person from complying with and obeying any order or decision, or any requirement of any order or decision of the commission theretofore made, or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the commission by order directs.

(f) If, after reconsideration or rehearing the commission is of the opinion that the original order or decision, or any part thereof, is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change, or modify it. The order or decision abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision unless so ordered by the commission.

**Sec. -31. Appeals.** From every order made on an application for reconsideration or rehearing by the commission under the provisions of this chapter an appeal shall lie to the supreme court in like manner as an appeal lies from an order or decision of a circuit judge at chambers. The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, upon such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise in order to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained in whole or in part.

**Sec. -32. Witnesses.** (a) Each witness who appears by order of the commission shall receive for his attendance the same fees and mileage allowed by law to witness in civil cases, which shall be paid by the party at whose request the witness is subpoenaed. When any witness who has not been required to attend at the request of any party is subpoenaed by the commission, his fees and mileage shall be paid from the fund appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear,

and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to appear. All fees or mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. No witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation.

(b) In case of the refusal of any witness to attend or testify or produce any papers required by a subpoena issued by the commission, the commission may file in the circuit court a petition setting forth that due notice has been given of the time and place of attendance of the witness, or the production of the papers, and that the witness has been summoned in the manner prescribed in this section and has failed and refused to attend or produce the papers required by the subpoena, or has refused to answer questions propounded to him in the course of the proceeding. The petition shall include a request for an order of the court, compelling the witness to attend and testify or produce the papers before the commission.

(c) Upon the filing of a petition the court shall enter an order directing the witness to appear before the court at a time and place fixed in the order and show cause why he has not attended and testified or produced said papers before the commission. The time fixed shall not be more than 10 days from the date of the order. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the commission, the court shall thereupon enter an order that the witness appear before the commission at the time and place fixed in the order, and testify or produce the required papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

(d) The commission or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts of this State and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

(e) No person shall be excused from testifying or from producing any book, waybill, document, paper, or account in any investigation or inquiry by or hearing before the commission when ordered to do so, upon the ground that the testimony or evidence, book, waybill, document, paper, or account required of him may tend to incriminate him or subject him to penalty, but no person shall be prosecuted, punished, or subjected to any penalty for or on account of any act, transaction, matter or things concerning which, under oath, he has testified or produced documentary evidence, but no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. Nothing herein contained shall be construed as in any manner giving to any corporate motor carrier immunity of any kind.

**Sec. -33. Agreements between carriers.** (a) For purposes of this section the term 'anti trust laws' means any law of the State of Hawaii previously enacted or hereafter enacted pertaining to unlawful restraints of trade and monopolies.

(b) Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or

charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may, under such rules and regulations as the commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any such agreement (\*if approval thereof is not prohibited by subsections (d) or (e) if it finds that, by reason of furtherance of the transportation policy declared in this chapter, the relief provided in subsection (h) should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. The approval of the commission shall be granted only upon such terms and conditions as the commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this subsection.

(c) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the commission such reports, as may be prescribed by the commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the commission or its duly authorized representatives.

(d) The commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is of the character described in subsection (b) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purposes of this subsection carriers by aircraft are carriers of one class; carriers by motor vehicles are carriers of one class; carriers by water are carriers of one class.

(e) The commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

(f) The commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in subsection (b), or whether any such terms and conditions are not necessary for purposes of conformity with such standard, and, after such investigation, the commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the commission determined to be reasonably necessary to avoid undue hardship.

(g) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

\* So in original. Closing parenthesis missing.

(h) Parties to any agreement approved by the commission under this section and other persons are, if the approval of such agreement is not prohibited by subsections (d) or (e), hereby relieved from the operation of the anti trust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the commission.

(i) Any action of the commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of subsection (h).

**Sec. -34. Safety compliance fee, gross weight fee, and other fees and charges.** (a) Every motor vehicle operated by a motor carrier or a private carrier of property as provided in section .....-7(a) hereof shall display at all times the safety identification decal or emblem issued every year by the commission to identify each of the motor vehicles belonging to motor carriers currently complying with the requirements of said section .....-7(a). The motor carrier or private carrier of property shall pay the commission for each such safety identification decal or emblem, for each of its motor vehicles, the annual fee of \$3.00 at the time the carrier submits its application for the issuance to it of the number of such decals or emblems it needs for that calendar year or the portion thereof remaining. Any substitution or transfer of such decal or emblem shall be unlawful. The motor carrier or private carrier of property shall further pay for each safety inspection of each motor vehicle, as required by the commission's rules and regulations, the fee of \$3.00 for each motor vehicle or whatever lesser amount as is determined by the commission to be a necessary and reasonable vehicle safety fee. No other safety identification or inspection fee shall be collected by the State or any political subdivision thereof for any other safety inspection of aforesaid motor vehicle.

(b) In addition to all other fees to be paid by him, every common carrier by motor vehicle and every contract carrier by motor vehicle, including those within the provisions of section .....-5(1), shall pay to the commission each year at the time of, in connection with, and before receiving his gross weight identification emblem or his identification plate as provided by section .....-27 hereof for each motor vehicle owned or operated by him based upon the maximum gross weight thereof, the following fees for each calendar year or portion thereof remaining:

Less than 4,000 lbs. ....	\$ 7.00
4,000 lbs. or more and less than 6,000 .....	8.00
6,000 lbs. or more and less than 8,000 .....	9.00
and continuing with increments of \$1.00 for every additional 2,000 pounds until the following gross weight fees are reached:	
56,000 lbs. or more and less than 58,000 lbs. ....	\$34.00
58,000 lbs. or more and less than 60,000 lbs. ....	35.00
60,000 lbs. or more .....	36.00

The commission may determine, however, that the full amounts of aforesaid fees are not needed for any calendar year and may determine fees of lesser amounts to be necessary and reasonable for said year and may vary the

aforesaid schedule of fees accordingly. Aforesaid emblems shall be affixed in a conspicuous place upon the motor vehicle as prescribed by the commission and shall be so displayed throughout the year. Any transfer or substitution of any such emblem shall be unlawful.

(c) The commission shall establish fair and reasonable fees for the following applications which shall be paid to the commission at the time of submission to it of said applications:

1. Applications for certificates and permits as provided by sections .....-10 and .....-11.

2. Applications for extensions of certificates as provided by section .....-10(d).

3. Applications for temporary certificates and permits as provided by section .....-14.

4. Application for authority to sell, lease, assign, encumber, merge, etc., the property necessary or useful in the performance of duties to the public or certificates or permits or to purchase motor carrier stock, etc., as provided in section .....-16.

5. Application for approval of plans and specifications for construction in Hawaii or modification of a motor vehicle or class of motor vehicles which will at any time operate upon the highway as provided in section .....-7(a) (6).

(d) The commission may charge an amount it deems necessary and reasonable to defray the cost of supplying to the carriers and the public the application forms and other forms, schedules, tariffs, copies of regulations, and other pamphlets and materials it provides either by the individual copy or in bulk.

(e) All of the fees and charges collected under the provisions of this section shall be paid into the treasury of the State of Hawaii.

**Sec. -35. Separability of provisions.** If any provision of this chapter, or the application thereof to any person, or commerce, or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons, or commerce, or circumstances, shall not be affected thereby."

**SECTION 3. Immediate staffing.** The commission may employ, without regard to the requirements of chapter 3 and the residency requirements of section 5-1, Revised Laws of Hawaii 1955, a superintendent of transportation, a rate and records examiner and a traffic and safety officer who will assist the commission in the performance of its duties and obligations under this chapter. The commission may fix the individual compensation of the aforesaid three persons with the approval of the governor and without regard to the provisions of chapter 4, Revised Laws of Hawaii 1955. The commission is authorized to include in subsequent budgets of the commission an amount to carry out the purpose of this Act. This section shall take effect on July 1, 1961.

**SECTION 4. Time effective.** This Act (except as to section 3 which shall take effect on July 1, 1961) shall take effect and be in force on and after the 21st day of August, 1961; provided, however, that the commission shall, if found by it necessary in the public interest, by order, extend the time of the taking effect of any provision of this Act to such time after the 21st day of August, 1961, as the commission shall prescribe, but not beyond four calendar months thereafter.

(Approved June 2, 1961.) **H.B. 34.**

## ACT 122

An Act Relating to Ground-Water Resources of the State and Amending Chapter 87B of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 87B of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows :

**"Section 87B-1. Declaration of policy.** To meet the growing need for domestic, municipal, agricultural and industrial uses, it is necessary that the ground-water resources of the State be put to beneficial use to the fullest extent to which they are capable, that the threat of exhaustion, depletion, waste, pollution or deterioration by salt encroachment, and the unreasonable method of diversion, withdrawal or use of ground-water resources be prevented and that the supply and quality of such water resources be protected, conserved and controlled to assure their reasonable and beneficial use in the interest of the people of the State. It is therefore declared to be the policy of the State of Hawaii that (a) the development, utilization and control of all ground-water resources shall be directed to make the maximum contribution to the public benefit, (b) the ground-water resources of all areas must be regulated and protected from the threat of exhaustion, depletion, waste, pollution or deterioration by salt encroachment to assure adequate supplies for beneficial uses in the interest of the people, (c) the ground-water resources of certain areas under threat of exhaustion, depletion, waste, pollution or deterioration by salt encroachment must be protected, conserved and controlled to assure adequate supplies for beneficial uses in the interest of the people, (d) the State, in the exercise of its sovereign power, should control the development and use of the ground-water resources of the State in all areas and in areas where the supply is threatened with exhaustion, depletion, waste, pollution or deterioration by salt encroachment.

The Legislature hereby makes the following findings concerning the development utilization and control of the ground-water resources of the State :

(a) The development, utilization, and control of the ground-water resources of the State are vital to the people in order to assure adequate supplies for domestic, municipal, agricultural, industrial and other beneficial uses.

(b) The ground-water resources of the State must be regulated and protected for their best utilization, conservation and protection in order to prevent threat of exhaustion, depletion, waste, pollution or deterioration by salt encroachment.

(c) The ground-water resources of the State must be regulated and protected in areas where the supply is under threat of exhaustion, depletion, waste, pollution or deterioration by salt encroachment.

(d) The regulation of ground-water resources is essential to protect beneficial uses and to assure adequate supplies for beneficial users.

(e) The ground-water resources can best be utilized, conserved and protected if utilization thereof is restricted to beneficial uses and controlled by the board of land and natural resources responsible for proper development and utilization of the ground-water resources of the State.

(f) Planning for the development and utilization of ground-water re-

sources is essential in view of population growth and the expanding economic activity within the State.

**Section 87B-2. Definitions.** In this chapter, except where the context otherwise requires:

(a) 'Beneficial use' means use of water, including the method of diversion, storage, transportation and application, that is reasonable and consistent with the public interest in the proper utilization of water resources, including, but not limited to, domestic, municipal, military, agricultural and industrial uses.

(b) 'Board' means the board of land and natural resources created by chapter 14A.

(c) 'Designated ground-water area' means an area in which the board finds that the ground water must be regulated and protected for its best utilization, conservation and protection in order to prevent threat of exhaustion, depletion, waste, pollution or deterioration by salt encroachment or an area in which the board finds that the ground water must be regulated and protected in order to protect the ground-water resources from exhaustion, depletion, waste, pollution or deterioration by salt encroachment.

(d) 'Domestic use' means the use of water by an individual, or by a family unit or household for drinking, cooking, laundry, sanitation, and other personal comforts and necessities, for the watering of stock used in operating a farm or as food for the family or household, or for the irrigation of the lawn or family garden not exceeding one-half acre in area.

(e) 'Emergency' means a shortage of ground water in any ground-water area, whether established as a designated ground-water area or not, which threatens the public health, safety and welfare.

(f) 'Ground water' means any water found beneath the surface of the earth, whether in perched supply, dyke-confined, flowing or percolating in underground channels or streams, under artesian pressure or not, or otherwise.

(g) 'Municipal use' means the use of water through public services available to the inhabitants of a community for the promotion and protection of their health, comfort and safety, for the protection of property from fire, and for the purposes listed under the term 'domestic use'.

(h) 'Permit' means a permit issued upon application of a person in accordance with the provisions of this chapter.

(i) 'Person' imports the plural as well as the singular and includes governmental entities and agencies, public and private corporations, associations, estates and individuals.

(j) 'Preserved use' means a use preserved under section 87B-15 of this chapter.

(k) 'Shortage' means the absence of a sufficient quantity and quality of ground-water in a designated ground-water area to supply lawful use of water.

(l) 'Time of taking' means, in view of the nature, manner, and purposes of a beneficial use of water, the most accurate method of describing the time when the water is taken, including description in terms of hours, days, weeks, months, or physical, operational, or other conditions.

(m) 'Well' means an artificial excavation or opening into the ground, or artificial enlargement of a natural opening by which ground water is drawn or is capable of being drawn from the ground; the term includes, but is not

limited to, circular, vertical, horizontal or approximately horizontal tunnels, and vertical or inclined shafts.

**Section 87B-3. Regulations of ground-water resources.** The ground water of designated ground-water areas of the State is subject to regulation under the provisions of this chapter. After June 12, 1959, no person shall make any use of the water of any designated ground-water area of the State except in compliance with the provisions of this chapter. No right, title, or interest in the use of any of the ground-water resources of this State can be acquired by means of prescription. Nothing contained in this section or this chapter, however, shall be construed as an admission or declaration on the part of the State of any prescriptive rights to ground water in favor of any private party.

**Section 87B-4. Administration by board of land and natural resources.** The board of land and natural resources created by chapter 14A shall administer the ground water program established by this chapter, provided, however, that all meetings held by the board to consider matters arising hereunder the managing officer or engineer of the board of water supply or water department of the respective counties shall be invited to participate as ex-officio members without voting power.

**Section 87B-5. General powers.** To effectuate the provisions of this chapter, the board is authorized :

(a) To conduct, authorize, cooperate or contract for the conducting of scientific investigations, experiments and research and to collect data concerning the ground-water resources of the State through the water program of the board ;

(b) To enter at all reasonable times upon any and all public and private lands within the State without doing damage, for the purpose of conducting investigations and studies and inspecting water resources and their use ;

(c) To establish and consult with advisory boards and/or water user associations ; to advise and make recommendations to the board on research, policies, administration and other matters ; and to encourage and promote agreements among users of ground-water and to supply the parties to such agreements with information and advice in order to carry out the intent of this chapter ;

(d) To require reports, on forms furnished by the board, from all owners or operators of wells, from all persons holding or claiming rights to withdraw or receive or use water from wells owned by others, and from all well drillers, whether such wells are located in the designated ground-water areas or not, providing all information on ground-water use that the board shall deem necessary to further the purposes of this chapter ; and it shall be the duty of all such persons to make such reports to the board at the times prescribed in its rules and regulations ; and each such report shall contain a statement, signed by the person making the report, to the effect that the contents thereof are true to the best of his knowledge and belief ;

(e) To designate ground-water areas for regulations, protection and control under this chapter on its own initiation or upon petition by any interested person, where the board, after conducting the scientific investigations and research mentioned in (a) and after public hearing and published notice thereof as herein provided, finds that any of the following conditions exist or may exist in the foreseeable future, and that such conditions will endanger the supply or condition of the water in such area : (1) the use of



ground water exceeds the rate of recharge; (2) ground-water levels are declining or have declined excessively; (3) chloride content of the water is increasing to a level that materially reduces the value of the use to which water is being put; (4) excessive preventable waste of water is occurring; (5) any proposed water development or developments which is constructed would be\* in the opinion of the board lead to one of the above conditions;

(f) To retain such establishment of a designated ground-water area so long as the factors justifying such designation remain in effect, provided, however, that whenever it may appear that such factors are no longer present, the board, upon its own motion or a motion of any interested person, shall hold a public hearing for the purpose of determining whether or not the designation should be rescinded, and provided, further, that such hearing shall be called and conducted in the manner prescribed in this chapter and no such rescission shall be or become effective until thirty days after the decision with respect thereto;

(g) To hold hearings upon matters pending before it for determination; provided that where a public hearing and published notice thereof are required, notice of the time, place and purpose of the hearing shall be published once each week for three successive weeks in a newspaper of general circulation in the appropriate county, the last publication to be not less than ten days nor more than thirty days before the date set for the hearing;

(h) To subpoena and compel the attendance of witnesses to any investigation, hearing, or proceeding before it, and the production of books, papers, and other evidence pertinent to any such matters; to administer oaths and examine witnesses under oath, and to authorize any of its members or agents to do so. In the event of failure of any person to obey any such subpoena or to testify thereunder before the board or before any member or agent of the board authorized by it to take testimony, such person may be punished as for contempt of the circuit court, on application therefor by the board to the court;

(i) To seek enforcement in the courts of the provisions of this chapter or of any rule, regulation, or order of the board;

(j) To intervene on behalf of the public in any suit in any court in which the control or withdrawal of any waters from any designated ground-water area or rights to their use shall be in issue;

(k) To require the cessation of waste of the water of any designated ground-water area, and the cessation of practices that result or are likely to result in the excessive or dangerous deterioration of the quality of any such water; and

(l) To exercise its shortage and emergency authority under this chapter.

**Section 87B-6. Departmental cooperation.** The board may request and receive from any department, division, board, bureau, commission, public body, or agency of the State or of any political subdivision thereof, or government of the United States of America or any of its agencies, or from any organization, incorporated or unincorporated, which has for its object the control or use of any of the water resources of the State, such assistance and data as will enable the board to properly carry out its activities and effectuate its purposes hereunder. The board shall provide for reimbursement of such agencies for special expenses resulting from expenditures not normally a part of the operating expenses of any such agency.

\* So in original.

**Section 87B-7. Rules and regulations.** (a) The board may make, amend, and repeal such rules and regulations concerning notices, hearings, and proceedings, under this chapter as it shall deem necessary for the accomplishment of its functions, and all such rules and regulations, when made or amended after a public hearing thereon, of which notice shall have been published as provided in section 7-30 shall have the force and effect of law.

(b) For purposes of rules, regulations, forms and orders, the board may classify uses, sources, methods of development and other related matters within its jurisdiction and prescribe different requirements therefor.

**Section 87B-8. Action of other government agencies and municipalities.**

(a) No state or local governmental agency may enforce any ordinance, rule or regulation that affects the use of ground water from a designated ground-water area, whether promulgated before or after June 12, 1959, unless the board has approved the ordinance, rule or regulation.

(b) No state or local governmental agency or other person having the power of eminent domain or condemnation may exercise that power in respect to the taking of any rights to ground-water from designated ground-water areas within the State unless written consent is obtained from the board.

**Section 87B-9. Investigations.** The board may in its discretion: (a) make such investigations as it deems necessary, through the attorney general, (1) to determine if any person has violated or is about to violate any provision of this chapter or any rule, regulation or order of the board, or (2) to aid in enforcing this chapter or in formulating rules, regulations or orders;

(b) Require or permit any person to file a statement as to any facts and circumstances within his knowledge concerning the matter to be investigated; and

(c) Publish information concerning any investigation made pursuant to this chapter.

**Section 87B-10. Injunctions.** If it appears to the board that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation or order of the board, the board may bring an action in the appropriate circuit court to enjoin any such acts or practices and to enforce compliance with this chapter or any rule, regulation or order. Upon a proper showing, the court shall grant a restraining order, temporary or permanent injunction, or other appropriate relief. The board shall not be required to post a bond.

**Section 87B-11. Hearing procedures.** In all hearings required to be conducted under this chapter: (a) The board shall have authority to (1) administer oaths and affirmations, (2) issue subpoenas, (3) rule upon offers of proof and receive relevant evidence, (4) take or cause depositions to be taken, (5) regulate the course of the hearing, (6) hold conferences for the settlement or simplification of the issues by consent of the parties, (7) dispose of procedural requests or similar matters, (8) make findings of fact, determinations of law, conclusions, and the decision as to the subject matter of the hearing, and (9) take any other action authorized by board rule consistent with this chapter.

(b) Any oral or documentary evidence that the board deems helpful may be received but the board shall as a matter of policy provide for the ex-

clusion of irrelevant, immaterial, or unduly repetitious evidence. Parties to the hearing shall have the right to present their case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In a hearing on the initial application for a permit, the board may adopt procedures for the submission of all or part of the evidence in written form only.

(c) The board may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized knowledge. Parties shall be notified either before or during hearings, or by reference in preliminary reports or otherwise, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The board may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.

(d) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision by the board, and, upon payment of lawfully prescribed costs, shall be made available to the parties. The board shall prepare an official record, which shall include findings of fact, determinations of law and the decision as to the subject matter involved, and the testimony and exhibits, but it shall not be necessary to transcribe shorthand notes unless requested for court review.

**Section 87B-12. Judicial review.** (a) Any person aggrieved by an order or decision of the board may obtain a review of the order or decision in the circuit court of the judicial circuit in which the ground-water area affected by the order or decision is located by filing in the court within sixty days after the entry of the order or decision a written petition praying that the order or decision be modified or set aside in whole or in part.

(b) A copy of the petition shall be served upon the board, and within thirty (30) days after service of the petition, or within such further time as the court may allow, the board shall transmit to the court the original or a certified copy of the entire record upon which the order or decision was based; but, by stipulation of all parties to the review proceeding, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs.

(c) On appeal, the findings of the board as to the facts, if supported by substantial evidence in the record, are conclusive.

(d) The commencement of proceedings under this section shall not, unless specifically ordered by the court, operate as a stay of the board's order or decision.

**Section 87B-13. Continuation and initiation of domestic uses.** (a) Domestic uses of ground-water as defined in this chapter, whether in a designated ground-water area or otherwise, being made on June 12, 1959, may be continued and new domestic uses of ground-water may be initiated after June 12, 1959 without the user being required to certify his use or to apply for a permit; provided, however, such user shall file such reports as are required by the board.

(b) Where access to a suitable supply of ground-water is available, new domestic uses may be initiated without regard to whether the taking for domestic use reduces the water supply or any preserved use or use made pursuant to a permit.

(c) No person making a domestic use may initiate an action in the courts to compel the reduction of any preserved use or use made pursuant to a permit granted prior to the initiation of the domestic use in order to make available a sufficient quantity of water for the domestic use.

**Section 87B-14. Shortage and emergency powers.** Domestic uses shall be subject to the shortage and emergency powers of the board under sections 87B-33 and 87B-34 of this chapter.

**Section 87B-15. Preservation of existing uses.** (a) The withdrawal of water directly from any designated ground-water area, which is a lawful and beneficial use, other than a domestic use, (1) being made at the effective date the board designates a designated ground-water area, (2) to be in conjunction with facilities under construction at such date, or (3) made within the five years prior to such date, may be continued if the uses remain beneficial and if the user complies with the provisions of section 87B-16. For the purposes of this chapter the effective date shall be the date 90 days prior to the date the board designates a designated ground-water area.

(b) Unless authorized by the board, no use preserved in subsection (a) may be modified by increasing the quantity of water used or by substantially changing the purpose or manner of the use, or the time of taking the water, or the point of diversion of the water from any designated ground-water area; provided, however, that any municipal corporation or person supplying a municipal corporation may increase its water use from such designated ground-water area up to one hundred thousand gallons, or five per cent, whichever is the greater, per day more than its average per day beneficial use during the year immediately prior to the date of establishment of a designated ground-water area without first receiving prior authorization from the board.

(c) Uses preserved under subsection (a) may be conveyed to the same extent and in the same manner as they could prior to June 12, 1959.

**Section 87B-16. Certification of existing uses.** (a) After the board has designated a ground-water area for protection and/or regulation, the board shall require by rule any person making a use preserved under section 87B-15(a) to file a declaration of his use with the board within three months, or any extension thereof, after the effective date of the rule. In its rules requiring the filing of declarations of existing uses, the board may divide the State into areas and prescribe different dates for filings from the various areas.

(b) Any person making a use preserved under section 87B-15(a) may file a declaration of his use with the board at any time prior to the required date for filing of such declaration.

(c) (1) When the board requires filing of declarations of uses by rule, it shall cause notice of the rule to be given by publication once each week for the three weeks prior to the effective date of the rule in a newspaper of general circulation in the affected county. (2) The board shall also cause notice of the rule to be given by registered or certified mail to any person required to file of whom the board has or could readily obtain knowledge or who has requested mailed notice to be given when the board adopted a rule requiring the filing of declarations.

(d) The declarations shall be in such form and contain such information as the board by rule prescribes, including the quantity of water used, the purpose or manner of the use, the time of taking the water, and the point of diversion of the water.

(e) If no declaration is filed as required by rule of the board, the board, in its discretion, may conclusively determine the extent of the uses preserved under section 87B-15(a).

(f) If the board has not acted upon a declaration within six (6) months after its filing, the board shall certify those uses described in the declaration.

(g) When uses preserved has been ascertained in accordance with the provisions of this section, the board shall issue a certificate describing such uses and setting forth the maximum daily and annual drafts from each well. Such certificate shall be deemed to constitute a description of the use preserved pursuant to this chapter, but shall not be deemed to constitute an adjudication of property rights, if any, to the water in the designated ground-water area.

(h) The board shall hold a hearing upon the request of any person adversely affected by the certification or the refusal to certify any water use.

**Section 87B-17. Exchange of preserved uses.** (a) Any person making a use preserved under section 87B-15(a) may voluntarily exchange his preserved use for a permit.

(b) Whenever any person shall materially violate the provisions of section 87B-15, the board in its discretion, after giving notice by registered mail, and after a hearing may enter an order that the violation constitutes an offer of exchange under subsection (a).

**Section 87B-18. Extinguishment of preserved uses.** All or any part of the uses preserved under section 87B-15 (a) shall be extinguished if they are not used for four consecutive years or for any five out of seven years. In computing the period: (1) years of non-use in the three years prior to the effective date of the establishment of a designated ground-water area shall be conclusively presumed to be years of non-use, (2) years of non-use caused by a shortage of water due to natural conditions will be considered neither years of use nor non-use, and (3) years during which a declaration was required to have been filed under section 87B-16 but during which none was filed shall be conclusively presumed to be years of non-use.

**Section 87B-19. Permits for ground-water use.** After the board has designated a ground-water area for protection and/or regulation, except in respect to domestic uses and uses preserved under section 87B-15(a), a withdrawal of water directly from any designated ground-water area may be made only in accordance with a permit issued by the board.

**Section 87B-20. Permits to supply ground-water.** (a) After June 12, 1959, no State or local government agency shall contract to obtain ground-water supply within a designated ground-water area from any person not holding a permit to supply water, unless permission is obtained from the board by such state or local governmental agency.

(b) After June 12, 1959, no person shall contract to supply or sell the rights to ground-water from a designated ground-water area to another person unless permission is obtained from the board by the supplier or seller.

(c) Permission required by this section shall not be withheld except for good cause and shall be deemed granted unless the board shall act or commence hearings thereon within ninety days after application therefor.

**Section 87B-21. Applications and notice.** (a) Each application for a permit required under this chapter shall be in writing and shall state specifically the information determined by board rule or regulation to be necessary to determine

(1) the merits of the water use, (2) the hazards to public health, safety or welfare, (3) the desirability of the permit, and (4) any qualifications of the applicant the board deems appropriate to effectuate the provisions of this chapter.

(b) At least ten days prior to the granting of any permit, the board shall cause notice of the application to be given by publication at the applicant's expense in a newspaper of general circulation in each county in which the water resources will be substantially affected by the granting of the permit. The board by rule, regulation or order, may also require the applicant to mail notices of the application to any state or local governmental agency or other person who may have an interest in the application.

**Section 87B-22. Granting of permits.** (a) In granting permits and determining the duration of permits, the board shall have as its objective the most beneficial use of the ground-water resources of the State.

(b) Permits may be granted if: (1) there is water available for use; (2) the use of the water will be beneficial; (3) the most beneficial use and development of the water resources of the State will not be impaired by granting the permit; and (4) granting the permit will not substantially and materially interfere with preserved uses, or with domestic or permitted uses made previously, except as provided in this chapter.

(c) Permits may be granted without regard to whether, under the law operative in the State prior to the date of designation of a designated ground-water area, the use made under the permit could have been maintained only in connection with specific lands or otherwise.

(d) The board shall hold a hearing upon the request of any person who is or may be adversely affected by the granting or denial of a permit.

**Section 87B-23. Classes of permits.** The board is authorized: (1) to establish classes of permits, and (2) to exempt for specific periods minimal quantities of water or types of water uses or users in specified areas from the requirement of a permit when the board finds that such exemptions do not constitute an unreasonable impediment to the beneficial use of the ground-water resources of the State.

**Section 87B-24. Duration of permits.** Each permit shall be issued for a specified period, not exceeding fifty years, as determined by rule, regulation or order of the board, depending upon the manner and nature of the water use involved.

**Section 87B-25. Conditions of permits.** Each permit granted by the board shall contain and be subject to the following conditions:

(a) The water must be used for the beneficial purpose described in the permit;

(b) The use authorized by the permit must not interfere substantially and materially with preserved uses or with domestic or permitted uses made previously, except as provided in this chapter;

(c) The use is subject to the shortage and emergency powers of the board;

(d) The permit may be suspended or revoked in accordance with the provisions of this chapter; and

(e) Such other conditions as the board may establish by rule or regulation to effectuate the provisions of this chapter.

**Section 87B-26. Permits interfering with preserved, domestic or permitted uses.** Where application is made for a permit and there is sufficient water available, but the use under the permit would interfere substantially and

materially with a domestic use previously initiated, or with the ground-water supply, or water diversion facilities of a preserved use or a use made under a permit previously granted, the board may issue a permit subject to the condition that the permit holder furnish to the person whose use is interfered with water equal in quantity and comparable in quality to that lost by reason of the interference.

**Section 87B-27. Compulsory relinquishment of permits.** Unless a specific exemption is authorized by the board, each permit shall provide, as a condition, that at any time or at a specified time after issuance of the permit the permit holder may be required, upon receipt of reasonable compensation, to relinquish to the board his permit if the board determines that (1) there exist one or more applicants for permits to make water uses which would be more beneficial, or which would be as beneficial and would provide a more complete utilization of the available water, than the permit holder is making; (2) additional permits to make such uses cannot be granted without acquiring the water use permit because there is no reasonably available water; and (3) the applicants are willing and able to furnish reasonable compensation to the permit holder.

**Section 87B-28. Renewal of permits.** (a) A permit holder may file an application for a renewal of the permit after one-half the length of the period of the existing permit has expired. Renewed permits shall take effect immediately upon being granted by the board.

(b) If a permit has been issued for a period exceeding one year, and no application for renewal has been filed six months before the expiration of the permit, the board after thirty days written notice to the permit holder during which time such permit holder may file an application for renewal may proceed immediately to grant to another person a permit to use the water being used pursuant to the existing permit, and to become effective upon the expiration of the existing permit.

(c) The board shall hold a hearing upon the request of any person adversely affected by the renewal or refusal to renew a permit.

**Section 87B-29. Revocation of permits.** (a) A permit may be revoked in whole or in part: (1) for any material false statement in the application or in any report or statement of fact required pursuant to the provisions of this chapter; (2) for violation of the provisions of this chapter; (3) for violation of the conditions of the permit, or (4) for non-use.

(b) In any proceeding to revoke a permit in whole or in part, the board shall give written notice to the permit holder of the facts or conduct which may warrant such action and provide opportunity for a hearing.

**Section 87B-30. Injunctions.** Except as provided in this chapter, no court may enjoin the use of water by any person who holds a valid permit for such use.

**Section 87B-31. Injury to property rights, damages.** If the use authorized under a permit results in an injury to any property rights, the injured person is entitled to compensation for actual damages in a suitable action at law against the permit holder.

**Section 87B-32. Fees for permits.** The board is authorized to establish fees for the issuance of permits under this chapter. In determining the amount of fees the board shall consider the class of the permit, the duration of the permit, the capital investment made or to be made by the permit holder, the quantity or nature of the water use, and other factors the board deems relevant or

material in the determination of a reasonable fee. The fee may be waived, in the discretion of the board if the permit holder has agreed to convey any rights having substantial value to the State.

**Section 87B-33. Water shortages.** (a) If a shortage of water exists in any designated ground-water area of the State, the board may, after public hearing and published notice thereof as herein provided, in order to obtain the most beneficial use of the water resources of the State and to protect the public health, safety, and welfare and the interests of the water users affected:

(1) establish rules, regulations, or orders affecting the use of ground-water, as the conditions warrant, and forbidding the construction of new diversion facilities or wells, the initiation of new water uses, or the modification of any existing uses, diversion facilities, or storage facilities within the affected area;

(2) regulate the use of ground-water within the affected area by apportioning, limiting, or rotating uses of water, or by preventing those uses which the board finds have ceased to be reasonable or beneficial, but (i) domestic, municipal and military uses shall always be preferred to other uses; (ii) preserved uses shall always be preferred to uses made pursuant to permits; and (iii) among permitted uses which are substantially similar, the board shall give preference to uses initiated prior in time unless the board determines that such preference would impair or be detrimental to the public interest in the utilization of water resources; and

(3) make other rules, regulations and orders necessary for the preservation of the public health, safety and welfare and the interest of affected water users.

(b) On the motion of any affected person, the board shall set a time and place of a hearing to determine whether any rules, regulations, or orders established under this section shall be amended, repealed or revoked.

**Section 87B-34. Emergency powers.** (a) If any emergency exists within any ground-water area of the State whether designated or not, and if the board finds that the exercise of its powers under section 87B-33 will not protect the public health, safety and welfare, the board, after public hearing and published notice thereof as herein provided, may:

(1) Establish rules, regulations, or orders limiting, apportioning, rotating, or prohibiting the use of the water resources in the affected ground-water areas of the State;

(2) Authorize any affected state or local governmental agency or public water supplier to enter upon public or private lands in any ground-water area and remove any amount of ground-water necessary to protect the public health, safety and welfare, provided that, if such entry or taking interferes with any property right other than any right which may be acquired under this chapter due compensation shall be payable; and

(3) Designate the ground-water area for regulation in accordance with Section 87B-5(e) and may:

(4) Make other rules, regulations, and orders necessary with respect to such ground-water areas to protect the public health, safety and welfare during the emergency.

(b) On the motion of any affected person, the board shall set a time and place of a hearing to determine whether the emergency has terminated or whether any rules, regulations or orders entered during the emergency should be amended, repealed or revoked;

(c) The authority granted the board under this section is in addition to the authority granted under other provisions of this chapter.



**Section 87B-35. Short title.** This Act may be cited as The Ground-Water Use Act.

**Section 87B-36. Effect on other statutes.** This chapter is not intended to repeal chapter 101 or sections 152-30 to 152-40, inclusive. In the event of conflict, this chapter, and rules and regulations established hereunder, shall prevail."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1961.) **S.B. 429.**

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## ACT 123

An Act Relating to the Filling of a Vacancy in the United States Senate.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby added to chapter 11 of the Revised Laws of Hawaii 1955 a new section to be appropriately numbered and to read as follows :

**"Section . Vacancy: United States Senator.** When a vacancy occurs in the office of United States Senator such vacancy shall be filled for the unexpired term at the following state general election, provided that such vacancy occurs not less than sixty days prior to the date of the primary for nominating candidates to be voted for at such election ; otherwise at the state general election next following. The Governor shall issue a proclamation designating the election for filling such vacancy. Pending such election the Governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill such vacancy and shall be a registered member of the same political party as the Senator causing the vacancy. All candidates for such unexpired term shall be nominated and elected in accordance with the provisions of this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1961.) **S.B. 67.**

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## ACT 124

An Act Relating to the Amendment of Chapter 53, Revised Laws of Hawaii 1955 by Providing for the Filling of Certain Prescriptions Written by "Out-of-State" Practitioners.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 53 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto two new sections to be appropriately numbered and to read as follows :

**"Section . Definition of 'Out-of-State Practitioner.'** The term 'Out-of-State Practitioner' as used in this chapter, includes a physician, surgeon, osteopathic physician, dentist, veterinarian, or any other person who is authorized to prescribe drugs to patients under the applicable laws of any state or country.

**Section . Out-of-State Prescriptions.** An original prescription written by an out-of-state practitioner within the confines of his license and in accordance with Hawaii statutory law and regulation, excluding narcotics and habit-forming drugs, may be filled but once and only if filled within 90 days of the date of such original prescriptions. The pharmacist filling such prescription shall demand proper identification from the person whose name appears on the prescription prior to filling such prescription. The pharmacist who fills an out-of-state prescription is responsible in case the prescription is not written in the form prescribed by law and regulation. The pharmacist shall properly identify such prescriptions as 'Out-of-State Filled' together with the date of filling and the local address of the person whose name appears on the prescription. Filled out-of-state prescriptions are to be kept in a special file for two years."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 5, 1961.) **S.B. 473.**

## ACT 125

A Bill for an Act Making Appropriations out of the General Revenues and Approving Expenditures from Other Sources for the Fiscal Period Ending June 30, 1962.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The following sums, or so much thereof as shall be sufficient to accomplish the purpose or programs designated herein, are hereby appropriated out of moneys in the treasury from general revenues and the expenditures from other sources designated herein are hereby approved for the fiscal period beginning July 1, 1961 and ending June 30, 1962:

### ECONOMIC DEVELOPMENT AND NATURAL RESOURCES

AGRICULTURE AND CONSERVATION, DEPARTMENT OF	(249.5)
General Administration	2,240,892
Net Appropriation.....	146,994(18.0)
Planning and Development	
Net Appropriation.....	11,700(3.0)
Animal Industry	
Administration.....	35,469(5.0)
Livestock Disease Control.....	94,360(7.0)
Veterinary Laboratory.....	80,668(9.0)
Inspection and Quarantine.....	178,463(23.5)
Meat Inspection.....	173,904(22.0)
Meat Grading Service.....	15,000
Naalehu Disease Control.....	15,500(1.0)
Total Requirements.....	593,364(67.5)
Less Estimated:	
Federal Funds.....	15,500(1.0)
Special Funds.....	126,920(12.5)
Net Appropriation.....	450,944(54.0)
Entomology and Marketing	
Administration.....	46,553(7.0)
Plant Quarantine Inspection.....	176,895(27.5)
Pest Control.....	113,088(13.0)
Marketing and Inspection.....	151,908(22.62)

Seed, Weed and Herbicide.....	50,933(4.63)
Hawaii Soil Conservation.....	2,600
Net Appropriation.....	541,977(74.75)
<b>Fish and Game</b>	
Administration.....	47,798(6.0)
Enforcement and Education.....	136,530(18.0)
Fisheries Research and Management.....	178,102(18.0)
Wildlife Research and Management.....	188,604(19.0)
Total Requirements.....	551,034(61.0)
Less Estimated:	
Appropriated Receipts.....	61,000(4.5)
Federal Funds.....	162,320(24.25)
Net Appropriation.....	327,714(32.25)
<b>Forestry</b>	
Administration.....	52,184(6.25)
Research.....	104,572(4.25)
Development and Production.....	453,300(33.0)
Maintenance, Operation and Protection.....	172,207(24.0)
Total Requirements.....	782,263(67.5)
Less Estimated:	
Federal Funds.....	20,700
Net Appropriation.....	761,563(67.5)

Provided, that in the animal industry program, the veterinarian positions remaining in Maui may represent two half-time positions and in Hawaii may represent one full-time and two half-time positions; and provided further, that the salaries of the incumbents shall not be reduced until such time as the director can meet the manpower recommendations of Booz, Allen & Hamilton.

Provided further, that in the animal quarantine and inspection program, the sum of \$3,119 shall be used for landscaping the "A" kennels area and that the sum of \$4,165 shall be used for temporary help to aid the livestock inspectors.

Provided further, that in the fisheries research and management program, the sum of \$6,000 shall be used for the mass introduction of new ocean fish.

Provided further, that in the forestry development and production program, the sum of \$60,000 shall be used for temporary and student help.

<b>ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>	(15.0) 2,962,925
<b>Economic Development Services</b>	
Net Appropriation.....	144,940(14.0)
<b>Farm Loan</b>	
Total Requirements.....	1,814,878(3.0)
Less Estimated:	
Farm Loan Reserve Special Fund.....	28,409(3.0)
Farm Loan Revolving Fund.....	286,469
Net Appropriation.....	1,500,000
<b>Tourist and Promotion Development</b>	12,985(1.0)
Tourist Promotion.....	1,200,000
Net Appropriation.....	1,212,985(1.0)
<b>Product Promotion</b>	
Net Appropriation.....	30,000
<b>Neighbor Island Economic Development</b>	
Net Appropriation.....	75,000

Provided, that in the tourism promotion program, the department, with the aid of the county advisory committees, shall contract for tourism promotion with the Hawaii Visitors Bureau on a matching ratio of two of state funds to one of Hawaii Visitors Bureau privately donated contributions received during the calendar year 1960; provided further, that the state funds shall not be expended

for the cost of administration of the Hawaii Visitors Bureau; and provided further, that the department shall use the remaining balance of the appropriation for tourism promotion.

Provided further, that in the neighbor island development program, the sum of \$25,000 shall be made available to each of the county economic development committees of Hawaii, Maui and Kauai.

	(122.0)
LAND AND NATURAL RESOURCES, DEPARTMENT OF	1,373,041
Administration and Land Management Division	
Net Appropriation.....	386,603(45.0)
Conveyance Division	
Net Appropriation.....	247,213(40.0)
Land and Water Development Division	
Administration	
Net Appropriation.....	80,477(9.0)
Resources Survey	
Total Requirements.....	598,779(41.0)
Less Estimated:	
Specific Appropriation—Act 274/59.....	17,270(1.0)
Federal Fund—Hydrography.....	209,317(36.0)
Special Fund—Hydrography.....	9,650
Net Appropriation.....	362,542(4.0)
Resources Development	
Net Appropriation.....	45,874(5.0)
Supplementation to Irrigation	
System Revolving Fund	
Waimanalo Irrigation System.....	67,648(9.0)
Waimea Irrigation System.....	31,946(4.0)
Total Requirements.....	99,594(13.0)
Less Estimated:	
Special Funds.....	49,866(13.0)
Net Appropriation.....	49,728
State Parks Division	
Net Appropriation.....	200,604(19.0)

Provided, that in the administration and land management program, the positions of the resources management division head and the secretary and all moneys allocated for these positions shall not be established or utilized until the formation of the resources management division.

Provided further, that in the administration and land management program, the position of account clerk II shall not be deemed surplus until the functions of the survey office are transferred from the department of accounting and general services to the department of land and natural resources.

Provided further, that the appropriation supplementing the Irrigation System Revolving Fund shall be reduced to the extent that the actual receipts of this special fund shall exceed the estimated sum of \$49,866 for the fiscal year 1961-1962.

	(17.0)
PLANNING AND RESEARCH, DEPARTMENT OF	164,110
Net Appropriation.....	164,110(17.0)
	(11.0)
TRANSPORTATION, DEPARTMENT OF	158,806
General Administration	
Total Requirements.....	115,608(9.0)
Less Special Funds.....	115,608(9.0)
Net Appropriation.....	

## Aeronautics

Administration.....	1,649,349(25.0)
Operations and Maintenance.....	1,301,351(176.0)
Total Requirements.....	2,950,700(201.0)
Less Estimated:	
Special Funds.....	2,950,700(201.0)
Net Appropriation.....	

## Harbors

Administration.....	1,130,166(33.0)
Operations and Maintenance—Commercial Harbors.....	784,825(104.0)
Small Boat Harbors.....	142,994(6.0)
Drawbridge Operation.....	15,812(5.0)
Total Requirements.....	2,073,797(148.0)
Less Estimated:	
Special Funds.....	1,842,808(137.0)
Reimbursements from Other Appropriations.....	72,183
Net Appropriation.....	158,806(11.0)

## Highways

Administration.....	4,821,013(108.0)
Maintenance.....	2,869,999(329.0)
Total Requirements.....	7,691,012(437.0)
Less Estimated:	
Special Funds.....	7,691,012(437.0)
Net Appropriation.....	

## EDUCATION

## EDUCATION, DEPARTMENT OF

(6569.4)  
37,948,426

## Administration

State.....	626,023(72.0)
District.....	223,488(31.0)
Total Requirements.....	849,511(103.0)
Less Estimated:	
Special Funds.....	7,441(3.0)
Federal Fund—Public Law 864.....	63,276
Net Appropriation.....	778,794(100.0)

## Supervision of Curriculum, Instruction and Guidance

General Direction.....	25,631(2.0)
General School Subjects.....	545,287(55.0)
Vocational, Post High School and Adult Education.....	233,109(23.0)
Guidance, Health and Special Education.....	211,468(23.0)
Audio-Visual Education.....	248,492(11.0)
Total Requirements.....	1,263,987(114.0)
Less Estimated:	
Federal Funds:	
Vocational Education Fund.....	96,190(13.0)
Public Law 864.....	11,891
Net Appropriation.....	1,155,906(101.0)

## Instruction and School Services

Kindergarten.....	2,496,853(459.0)
Elementary.....	17,515,506(2853.5)
Secondary.....	15,180,300(2340.0)
Orthopedically Handicapped Children.....	32,858(2.0)
Labainaluna Boarding Department and School Farm.....	99,336(5.0)
Diamond Head School.....	256,521(37.0)
Institutional Schools.....	242,086(37.0)
Hospital Schools.....	59,579(6.0)
Post High School.....	1,082,356(118.0)
Adult Education.....	278,480(14.0)
Total Requirements.....	37,243,875(5871.5)
Less Estimated:	
Special Funds.....	142,500(2.0)

Federal Funds:	
Vocational Education Fund.....	76,460
Public Law 864.....	439,602
Public Law 874.....	4,000,000
Veterans Administration.....	5,500(1.0)
Net Appropriation.....	32,579,813(5868.5)
Other Programs	
School Lunch Service.....	8,701,349(718.0)
Teacher Training.....	256,293(44.0)
School Work Experience.....	45,089(6.0)
Molokai High School Farm.....	10,000
Total Requirements.....	9,012,731(768.0)
Less Estimated:	
Special Funds.....	6,636,547(527.0)
Federal Funds:	
National School Lunch.....	330,000
Special Milk Program.....	140,000
Net Appropriation.....	1,906,184(241.0)

Provided, that in the audio-visual education program, not less than the sum of \$161,400 shall be expended for audio-visual equipment to be used in the classrooms.

Provided further, that in the instruction and school services program, the sum of \$108,108 shall be used for kindergarten classroom supplies, equipment and books; the sum of \$1,104,405 shall be used for elementary classroom supplies, equipment and books; and the sum of \$1,255,925 shall be used for secondary classroom supplies, equipment and books.

Provided further, that the appropriation for the kindergarten and elementary education programs, with respect to teachers' salaries and librarians' salaries, may, with the approval of the department of budget and review, be increased to an average of \$4,170 per classroom teacher or librarian; and provided further, that appropriation for the secondary education program, with respect to teachers' and librarians' salaries, may be similarly increased to an average of \$4,437.

Provided further, that in the elementary education program, the twelve clerical positions shall not be eliminated until the organization as recommended by Booz, Allen & Hamilton shall be implemented by the department and reviewed by the 1962 session of the legislature.

Provided further, that in the secondary education program, the sum of \$300,000 shall be used to abolish school fees in the secondary schools and the sum of \$15,000 shall be used to upgrade the substandard secondary school libraries.

Provided further, that in the school lunch service program, the sum of \$175,000 is provided to fulfill the requirements, if necessary, of needy children for lunches in the school and that the balance, if any, may be used by the department as a subsidy to the school lunch service program.

Provided further, that if a sum less than \$4,000,000 is provided by Congress under the provisions of Public Law 874, then the difference between \$4,000,000 and the sum so provided is hereby appropriated; and provided further, that if a sum greater than \$4,000,000 is provided then this appropriation shall be reduced to the extent the estimated sum of \$4,000,000 is exceeded for the fiscal year 1961-1962.

Provided further, that if a sum less than \$514,769 is provided by Congress under the provisions of Public Law 864, then the difference between \$514,769 and the sum so provided is hereby appropriated; and provided further, that if a sum greater than \$514,769 is provided then this appropriation shall be reduced to the extent the estimated sum of \$514,769 is exceeded for the fiscal year 1961-1962.

Public Library Service

Library of Hawaii.....	991,876(166.5)
Hawaii County Library.....	169,749(29.15)
Maui County Free Library.....	145,731(25.5)
Kauai Public Library Association, Ltd.....	129,075(23.94)
Total Requirements.....	1,436,431(245.09)

Less Estimated:	
Special Funds.....	88,435(12.94)
Federal Funds.....	54,606(8.25)
Net Appropriation.....	1,293,390(223.9)
Vocational Rehabilitation Service	
Vocational Rehabilitation.....	322,966(21.0)
Disability Determinations.....	38,405(6.0)
Independent Living.....	193,112(3.0)
Work Training for Mentally Retarded.....	112,502(12.0)
Total Requirements.....	666,985(42.0)
Less Estimated:	
Federal Funds.....	432,646(7.0)
Net Appropriation.....	234,339(35.0)

(1104.66)  
9,184,548

UNIVERSITY OF HAWAII

Administration	
Total Requirements.....	571,280(74.62)
Less Estimated:	
Special Funds.....	154,366
Federal Funds.....	21,510(5.0)
Net Appropriation.....	395,404(69.62)
Student Services	
Student Personnel.....	260,783(34.75)
Health Services.....	53,203(5.5)
Intercollegiate Athletics.....	4,057(.5)
Total Requirements.....	318,043(40.75)
Less Estimated:	
Special Funds.....	42,786
Net Appropriation.....	275,257(40.75)
Resident Instruction	
Instruction and Deans' Offices.....	4,507,186(545.48)
Asian Studies and Overseas Operations.....	66,094(8.0)
Audio-Visual Center.....	44,115(2.25)
Military Commutation.....	44,904(1.0)
Total Requirements.....	4,662,299(556.73)
Less Estimated:	
Special Funds.....	944,305(144.45)
Federal Funds.....	137,477(12.0)
Net Appropriation.....	3,580,517(400.28)
Summer Session	
Total Requirements.....	432,201(4.25)
Less Estimated:	
Special Funds.....	432,201(4.25)
Net Appropriation.....	—
Hilo Campus	
Total Requirements.....	260,345(29.0)
Less Estimated:	
Special Funds.....	51,510(4.0)
Net Appropriation.....	208,835(25.0)
General Studies	
Total Requirements.....	403,168(17.5)
Less Estimated:	
Special Funds.....	333,267(8.0)
Net Appropriation.....	69,901(9.5)
Laboratory Schools	
Total Requirements.....	411,502(54.75)
Less Estimated:	
Special Funds.....	67,400(7.75)
Net Appropriation.....	344,102(47.0)

Teacher Training	
Net Appropriation.....	78,450
Organized Research	
Computing Center.....	32,713(3.0)
Economic Research Center.....	78,353(7.0)
Faculty Research Committee.....	24,601(.5)
Hawaii Institute of Geophysics.....	188,710(9.0)
Hawaii Marine Laboratory.....	39,157(3.5)
Industrial Relations Center.....	30,010(2.5)
Institute of Health Research.....	103,850(5.66)
Land Study Bureau.....	125,478(12.0)
Social Science Research Institute.....	30,639(3.5)
Special Research Contracts.....	440,300
Total Requirements.....	1,093,811(46.66)
Less Estimated:	
Special Funds.....	40,000
Federal Funds.....	400,300
Net Appropriation.....	653,511(46.66)
Advanced Management Training	
Total Requirements.....	74,730(1.0)
Less Estimated:	
Special Funds.....	74,730(1.0)
Net Appropriation.....	<u>          </u>
Aquarium	
Total Requirements.....	85,957(11.75)
Less Estimated:	
Special Funds.....	37,400(4.0)
Net Appropriation.....	48,557(7.75)
Legislative Reference Bureau	
Net Appropriation.....	149,283(14.5)
Various Public Services	
Philosophy East-West.....	6,000
Pacific Science.....	8,652
Other Special Publications.....	47,579
Thailand Contract.....	280,000
Preservation and Study of Hawaiian Language and	
Arts.....	32,500
Total Requirements.....	374,731
Less Estimated:	
Special Funds.....	21,500
Federal Funds.....	280,000
Net Appropriation.....	73,231
Library	
Total Requirements.....	439,252(49.0)
Less Estimated:	
Special Funds.....	122,399(3.0)
Net Appropriation.....	316,853(46.0)
Operations and Maintenance of Physical Plant	
Administration.....	25,755(4.0)
Building Maintenance and Shop.....	532,008(8.0)
Campus Security and Janitorial Services.....	328,346(92.0)
Construction and Trucking.....	64,692(16.0)
Ground Maintenance.....	137,684(23.0)
Service, Receiving and Warehousing.....	16,617(4.0)
Total Requirements.....	1,105,102(147.0)
Less Estimated:	
Special Funds.....	93,628
Net Appropriation.....	1,011,474(147.0)



<b>Hawaii Agricultural Experiment Station</b>	
General Activities.....	1,309,475(158.38)
Bauxite Reclamation.....	9,387(1.0)
East Hawaii Branch Station.....	130,631(16.0)
Kauai Branch Station.....	91,730(12.0)
Kula Branch Station.....	68,117(10.5)
Molokai Demonstration Farm.....	34,000
Total Requirements.....	1,643,340(197.88)
Less Estimated:	
Special Funds.....	58,000
Federal Funds.....	299,256(29.44)
Net Appropriation.....	1,286,084(168.44)
<b>Agricultural Extension Service</b>	
Total Requirements.....	965,967(117.3)
Less Estimated:	
Federal Funds.....	272,878(35.14)
Net Appropriation.....	693,089(82.16)
<b>East-West Center</b>	
Total Requirements.....	3,346,500(82.0)
Less Estimated:	
Federal Funds.....	3,346,500(82.0)
Net Appropriation.....	—
<b>Income from Morrill Act Grant</b>	
Total Requirements.....	134,000
Less Estimated:	
Special Funds.....	134,000
Net Appropriation.....	—
<b>Sand Island Income</b>	
Total Requirements.....	637,000
Less Estimated:	
Special Funds.....	637,000
Net Appropriation.....	—

Provided, that in the instruction and deans' offices program, the sum of \$63,704 for the legislative and political party internships shall be reduced by the amount of funds received from any grants to this program.

Provided further, that the amount of the appropriation necessary to match allotments made by the United States Government for agricultural extension service and agricultural experiment station operations shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments, but only if this is a necessary condition for receiving such Federal allotments. Such disbursements matching the allotments may be regularly audited by the Federal Auditor and shall be subject to the same limitations as the character of expenditures of the Federal Funds which they offset.

Any other law to the contrary notwithstanding, no portion of the funds appropriated by this Act for the University of Hawaii, or collected or received by the University from its students or from the United States, or of any other funds under the control of its board of regents, shall be expendable for the reimbursement to the State for the amount payable by the State to cover the liability of the State to the various funds of the Employees' Retirement System or account of the employees of the University, nor shall any law providing for such reimbursement be deemed applicable to the University, except that this exemption shall not apply to Auxiliary Enterprise funds and other funds which have not been netted in deriving the net appropriation of the University.

## HEALTH AND SOCIAL SERVICES

(1406.6)  
8,813,935

### HEALTH DEPARTMENT OF

<b>General Administration</b>	
Departmental Administration.....	270,658(40.0)
Health Education.....	56,652(8.0)

Health Statistics.....	120,330(18.0)
Total Requirements.....	447,640(66.0)
Less Estimated:	
Federal Funds.....	46,043(8.0)
Net Appropriation.....	401,597(58.0)

**Dental Health**

Total Requirements.....	238,931(45.0)
Less Estimated:	
Federal Funds.....	800
Net Appropriation.....	238,131(45.0)

**Environmental Health**

Administration.....	70,782(6.0)
Industrial Health.....	92,560(11.0)
Mosquito Control.....	214,132(28.0)
Pure Food and Drugs.....	53,104(8.0)
Rodent Control.....	269,397(49.0)
Sanitary Engineering.....	361,486(56.0)
Total Requirements.....	1,061,461(158.0)
Less Estimated:	
Federal Funds.....	32,302(3.0)
Special Funds.....	6,643(1.0)
Trust Funds.....	4,500
Net Appropriation.....	1,018,016(154.0)

Provided that in the mosquito control program, the sum of \$30,000 shall be used to contract services for statewide mosquito control.

**Hansen's Disease**

Administration.....	34,258(4.0)
Outpatient and Special Services.....	57,566(7.0)
Hale Mohalu.....	395,831(46.0)
Kalaupapa Settlement.....	786,171(62.0)
Kalaupapa Store.....	128,400
Total Requirements.....	1,402,226(119.0)
Less Estimated:	
Federal Funds.....	1,200,000
Special Funds.....	128,400
Net Appropriation.....	73,826(119.0)

Provided, that in the Hansen's disease program, the management division of the department of budget and review may establish an occupational therapist position if there is sufficient workload increase in the program to justify such a position.

Provided further, that if a sum less than \$1,200,000 is provided by Congress for the Hansen's Disease program, then the difference between \$1,200,000 and the sum so provided is hereby appropriated; and provided further, that if a sum greater than \$1,200,000 is so provided, then the amount of the net general appropriation shall be reduced to the extent that the actual realization shall exceed the estimated sum of \$1,200,000 for the fiscal year 1961-1962.

**Local Health Services**

Administration.....	247,413(38.5)
Hospital and Medical Facilities.....	48,670(5.0)
Public Health Nursing.....	594,292(103.0)
Total Requirements.....	890,375(146.5)
Less Estimated:	
Federal Funds.....	63,225(13.0)
Net Appropriation.....	827,150(133.5)

**Mental Health**

Administrative, Preventive and Outpatient Services	
Total Requirements.....	468,992(47.0)
Less Estimated:	
Federal Funds.....	28,043(4.0)
Net Appropriation.....	440,949(43.0)

Convalescent Services	
Net Appropriation.....	72,579(9.0)
Inpatient Hospital Services	
Administration.....	113,027(20.0)
Support and Subsistence.....	758,313(68.0)
Care, Treatment and Training.....	1,585,669(293.0)
Maintenance and Operations.....	313,130(35.0)
Production.....	81,510(9.0)
Net Appropriation.....	2,851,649(425.0)

Provided, that this appropriation is intended for an average daily inpatient population of 1,200 at State Hospital.

Mental Retardation	
Administration	
Net Appropriation.....	49,145(6.0)
Community Services	
Total Requirements.....	121,813(17.0)
Less Estimated:	
Federal Funds.....	40,928(4.5)
Net Appropriation.....	80,885(12.5)
Institutional Care and Related Services	
Social Services and Parole.....	68,189(11.0)
Medical Services.....	110,621(6.6)
Training.....	73,369(12.0)
Administration and Support.....	389,785(37.0)
Care and Supervision.....	864,295(216.0)
Maintenance and Operations.....	281,541(22.0)
Production.....	138,491(12.0)
Total Requirements.....	1,926,291(316.6)
Less Estimated:	
Special Funds.....	14,000
Net Appropriation.....	1,912,291(316.6)

Provided, that this appropriation is intended for an average daily ward population of 860 at Waimano Home.

Preventive Medicine	
Administration.....	33,627(3.0)
Adult Health.....	124,350(15.0)
Alcoholism Services.....	37,545(3.0)
Communicable Disease Control.....	36,964(3.0)
Crippled Children's Services.....	322,906(27.0)
Laboratory Services.....	217,033(31.5)
Maternal and Child Health Services.....	94,401(8.0)
Nutrition.....	16,143(2.0)
Poliomyelitis Immunization.....	75,000
Tuberculosis Control.....	207,092(22.0)
Total Requirements.....	1,165,061(114.5)
Less Estimated:	
Federal Funds.....	315,844(29.5)
Trust Funds.....	1,500
Net Appropriation.....	847,717(85.0)

Provided, that in the poliomyelitis immunization program, the appropriation shall be first used for the indigent and medically indigent and shall then be used in a voluntary polio immunization program for all children throughout the State who are 18 years of age and under.

Research Projects	
Total Requirements.....	94,753(12.0)
Less Estimated:	
Federal Funds.....	94,753(12.0)
Net Appropriation.....	

SOCIAL SERVICES, DEPARTMENT OF

(578.0)  
8,386,954

Departmental Administration	
Total Requirements.....	258,191(38.0)
Less Estimated:	
Federal Funds.....	82,256(3.0)
Net Appropriation.....	175,935(35.0)
Social Welfare Services	
Social Welfare	
Total Requirements.....	1,198,275(201.0)
Less Estimated:	
Federal Funds.....	410,301(7.0)
Net Appropriation.....	787,974(194.0)
Sight Conservation	
Total Requirements.....	377,964(43.0)
Less Estimated:	
Federal Funds.....	16,846
Special Funds.....	114,469
Net Appropriation.....	246,649(43.0)
Parole and Home Placement	
Net Appropriation.....	55,100(8.0)
Veterans' Affairs	
Net Appropriation.....	33,219(5.0)
Economic Assistance	
Money Payments	
Aged Persons.....	1,077,076
Children and Their Families.....	3,713,290
Children in Foster Homes and Institutions.....	408,240
Blind Persons.....	64,720
Disabled Persons.....	1,348,573
Other Needy Adults.....	226,085
Total Requirements.....	6,837,984
Less Estimated:	
Federal Funds.....	3,616,261
Net Appropriation.....	3,221,723
Medical Care Payments	
To Counties.....	1,300,725
Increase due to S.B. 141*.....	432,401
To Government Physicians.....	160,625
Total Requirements.....	1,893,751
Less Estimated:	
Federal Funds.....	282,062
Net Appropriation.....	1,611,689
Case Services	
Total Requirements.....	35,568
Less Estimated:	
Federal Funds.....	16,740
Special Funds.....	8,000
Net Appropriation.....	10,828
Home Placement of Juvenile Offenders	
Net Appropriation.....	6,315
Aid to Paraplegic Veterans	
Net Appropriation.....	20,000

Provided, that the appropriations for economic assistance money payments are intended for average monthly caseloads of: Aged Persons—1,440 cases; Children and Their Families—2,500 cases; Children in Foster Homes and Institutions—540 cases; and Other Needy Persons—300 cases; Aid to Disabled—1,635 cases; and Aid to Blind—85 cases.

Provided further, that in the appropriations for medical care payments the sum of \$432,401 shall be effective only if Senate Bill No. 141\* is enacted into law.

\* See Act 128.

Corrections Administrative Services.....	17,500(2.0)
<b>Detention and Rehabilitation of Juvenile Offenders</b>	
Administration.....	46,638(8.0)
Support and Subsistence.....	59,780(2.0)
Care, Treatment and Training.....	364,624(75.0)
Maintenance and Operations.....	118,384(9.0)
Production.....	42,358(4.0)
Total Requirements.....	649,284(100.0)
Less Estimated:	
Special Funds.....	20,900
Net Appropriation.....	628,384(100.0)

Provided, that this appropriation is intended for an average daily ward population of 185 at the Division of Training Schools.

**Custody and Rehabilitation of Felons**

<b>Oahu Prison</b>	
Administration.....	62,521(8.0)
Support and Subsistence.....	262,443(5.0)
Care, Treatment and Training.....	542,518(99.0)
Maintenance and Operations.....	126,424(9.0)
Production.....	148,453(5.0)
Construction and Reconstruction of Prison Facilities.....	6,647
Total Requirements.....	1,149,006(126.0)
Less Estimated:	
Special Funds.....	156,213(3.0)
Net Appropriation.....	992,793(123.0)

Provided, that in the production program, the sum of \$35,000 shall be used by the department to purchase the necessary equipment required for the compost program.

<b>Kulani Project</b>	
Administration.....	21,815(3.0)
Support and Subsistence.....	60,711(1.0)
Care, Treatment and Training.....	127,249(22.0)
Maintenance and Operations.....	134,881(8.0)
Production.....	37,436(4.0)
Construction and Reconstruction of Prison Facilities.....	58,000
Total Requirements.....	440,092(38.0)
Less Estimated:	
Special Funds.....	98,161(1.0)
Net Appropriation.....	341,931(37.0)

<b>Olinda Project</b>	
Administration.....	14,186(2.0)
Support and Subsistence.....	23,977
Care, Treatment and Training.....	57,061(11.0)
Maintenance and Operations.....	27,768(1.0)
Production.....	20,789(3.0)
Gorse Control.....	12,992
Total Requirements.....	156,773(17.0)
Less Estimated:	
Special Funds.....	6,204
Net Appropriation.....	150,569(17.0)

Provided, that the appropriation for the various prisons is intended for an average daily inmate population of 600 in the Prison System.

<b>Parole and Pardon of Felons</b>	
Net Appropriation.....	103,845(16.0)

<b>Public Housing</b>	
Total Requirements.....	2,953,724(191.0)
Less Estimated:	
Special Funds.....	720,400
Funds Not Covered Into Treasury.....	2,233,324(191.0)
Net Appropriation.....	—

**PROTECTIVE SERVICES**

**DEFENSE, DEPARTMENT OF**

(107.0)

Military	860,497
Command and Administration.....	255,172(37.0)
Maintenance and Operation.....	430,427(62.0)
Encampment Pay.....	47,590
Total Requirements.....	733,189(99.0)
Less Estimated:	
Federal Funds.....	52,000
Net Appropriation.....	681,189(99.0)

Provided, that in the maintenance and operation program, the sum of \$3,120 shall be used to contract for maintenance services at all rifle ranges in each of the counties.

Provided further, that if the Hawaii National Guard and the Hawaii Air National Guard shall be called or ordered into the service of the United States, the foregoing appropriations or any part thereof remaining unexpended shall be available to the Hawaii State Guard. If only a part of the Hawaii National Guard or the Hawaii Air National Guard should be called or ordered into the service of the United States, the Adjutant General with the approval of the Director of the Department of Budget and Review shall allocate the foregoing appropriations or any part thereof remaining unexpended between the Hawaii State Guard and the Hawaii National Guard.

**Civil Defense**

Administration.....	108,671(7.0)
Health Services.....	22,276(1.0)
Special Program.....	90,722
Surplus Program.....	3,000
Total Requirements.....	224,669(8.0)
Less Estimated:	
Federal Funds.....	45,361
Net Appropriation.....	179,308(8.0)

Provided, that in the civil defense program, the sum of \$50,091 shall be used for the purchase and installation of sirens.

**LABOR AND INDUSTRIAL RELATIONS, DEPARTMENT OF**

(62.0)  
463,262

Administration	
Net Appropriation.....	102,750(12.0)
Apprenticeship	
Net Appropriation.....	34,594(5.0)
Labor Law Enforcement	
Net Appropriation.....	118,204(18.0)
Workmen's Compensation	
Total Requirements.....	205,838(26.0)
Less Estimated:	
Special Funds.....	16,000
Net Appropriation.....	189,838(26.0)
Hawaii Employment Relations Board	
Net Appropriation.....	17,876(1.0)

Provided, that in the administration program, there shall be no reduction of the three county labor representatives on the neighbor islands if the receipts of federal funds are adversely affected.

**TREASURY AND REGULATION, DEPARTMENT OF**

(59.0)  
525,538

Administration	
Net Appropriation.....	60,851(6.0)

Business Registration	
Net Appropriation.....	34,569(5.0)
Deputy Bank Examiner	
Net Appropriation.....	110,579(14.0)
Insurance Bureau	
Net Appropriation.....	80,882(12.0)
Office of the Fire Marshal	
Net Appropriation.....	37,916(3.0)
State Boxing Commission	
Net Appropriation.....	18,839(2.0)
Public Utilities Commission	
Net Appropriation.....	181,902(17.0)
Regulatory Boards and Commissions	
Total Requirements.....	296,733(35.25)
Less Estimated:	
Act 315/51, Scholarship Fund for Nurses.....	1,200
Appropriated Receipts.....	1,707
Special Funds.....	293,826(35.25)
Net Appropriation.....	<u>          </u>

**CENTRAL SERVICES**

ACCOUNTING AND GENERAL SERVICES, DEPARTMENT OF	(277.0)
	2,445,112
Departmental Administration	
Net Appropriation.....	93,458(11.0)
Accounting	
Net Appropriation.....	87,945(7.0)
Pre-Audit	
Net Appropriation.....	70,185(9.0)
Electronic Data Processing	
Net Appropriation.....	136,782(14.0)
Internal Post-Audit	
Net Appropriation.....	122,042(12.0)
Central Purchasing and Supply	
Net Appropriation.....	38,249(6.0)
Federal Surplus Property	
Total Requirements.....	86,073(10.0)
Less Estimated:	
Surplus Property Revolving Fund.....	86,073(10.0)
Net Appropriation.....	<u>          </u>
Insurance Management Program	
Administration.....	6,000
Commercial Insurance Purchase	
Auto Fleet Coverage.....	60,000
State Insurance Fund	
Workmen's Compensation.....	120,000
Fire and Other Casualties.....	145,000
Total Requirements.....	331,000
Less Estimated:	
Federal Funds.....	4,800
Special Funds.....	19,392
Net Appropriation.....	306,808
Central Messenger Service	
Total Requirements.....	18,249(5.0)
Less Estimated:	
Special Funds.....	2,917(1.0)
Net Appropriation.....	15,332(4.0)

Division of Public Works	
Public Works Administration.....	97,492(13.0)
Architectural and Engineering Services.....	869,561(72.0)
Maintenance and Operation of Buildings.....	889,186(138.0)
Repairs and Alterations of Buildings.....	268,125(18.0)
Total Requirements.....	2,124,364(241.0)
Less Estimated:	
Public Improvement Projects.....	869,561(72.0)
Special Funds.....	61,000
Net Appropriation.....	1,193,803(169.0)
Land Surveying	
Net Appropriation.....	264,125(27.0)
Public Archives Division	
Archives.....	58,748(10.75)
Central Records Management.....	41,585(7.25)
Total Requirements.....	100,333(18.0)
Less Estimated:	
Special Funds.....	200
Net Appropriation.....	100,133(18.0)
Kamehameha Day Celebration Commission	
Celebration Expenses	
City and County of Honolulu.....	6,500
Hawaii County.....	3,750
Kauai County.....	1,250
Maui County, including Kalaupapa.....	1,750
Salary—Kamehameha Day Historian.....	3,000
Net Appropriation.....	16,250

Provided, that in the internal and post-audit program, the sum of \$25,000 shall be used to contract for certified public accountants' services for audits.

Provided further, that for the architectural and engineering services the amount specified may be increased to the extent necessary due to the enactment of the capital improvements appropriations act.

Provided further, that in the land survey program, the sum of \$45,000 may be used to contract for aerial surveys, photographs of land and other related services.

Provided further, that in the Kamehameha Day celebration commission program, the sum of \$3,000 shall be used to contract for the services of a moolelo keia no Hawaii (historian) to advise the commission in Hawaiian lore and custom that such may be preserved and practiced in the various activities of the Kamehameha Day celebrations; and provided further, that such moolelo keia no Hawaii (historian) shall be a female of Hawaiian extraction, over 80 years of age, with actual personal acquaintance with the Kamehameha and Kalakaua dynasties, protocol of traditions, customs and usage as they were practiced before the annexation of Hawaii, of the political history and personalities of Hawaii since 1900, and who shall be an authority of the hula and other Hawaiian dances, songs and other forms of the culture of Hawaii.

ATTORNEY GENERAL, DEPARTMENT OF THE	(36.0)
	464,316
Attorney General's Office	
Total Requirements.....	588,151(48.0)
Less Estimated:	
Special Funds.....	145,300(15.0)
Net Appropriation.....	442,851(33.0)
Bureau of Crime Statistics	
Net Appropriation.....	1,200
Bureau of Civil Identification	
Net Appropriation.....	837
Commission on Subversive Activities	
Net Appropriation.....	19,428(3.0)



Provided, that in the bureau of crime statistics and civil identification programs, the positions declared surplus shall be contingent upon the passage of the legislation transferring this function to the city and county of Honolulu.

Provided, that the sum of \$35,000 shall be used to contract for the services of a person or persons who can present a sound legal and economic case for the State Hawaii to the proper authorities in Washington, D. C., and Hawaii for the return of federally held lands pursuant to the provisions of the Admission Act.

BUDGET AND REVIEW, DEPARTMENT OF (67.0)  
17,324,110

Departmental Administration	
Net Appropriation.....	266,896(10.0)
Budget Division	
Budget and Management	
Net Appropriation.....	229,226(24.0)
Finance Division	
Cash and Debt Management.....	48,048(6.0)
Public Debt Service.....	69,640
Bonded Debt.....	11,306,030
Veterans' Bonds.....	671,682(1.0)
Total Requirements.....	12,095,400(7.0)
Less Estimated:	
Veteran's Bonds	
Special Funds.....	671,682(1.0)
Net Appropriation.....	11,423,718(6.0)
Employees' Retirement System	
Administration.....	179,208(26.0)
Contributions.....	5,214,273
Pensions.....	57,132
Total Requirements.....	5,450,613(26.0)
Less Estimated:	
County Pro-Rata Share.....	59,288
Net Appropriation.....	5,391,325(26.0)
Children and Youth	
Net Appropriation.....	12,945(1.0)
Bonus to Pensioners	
Total Requirements.....	2,314,844
Less Estimated:	
Bonus to Pensioners.....	2,314,844
Net Appropriation.....	—

Provided, that in the Departmental Administration program, the sum of \$190,000 shall be used to contract for the services of a management consultant firm of national reputation in the area of public administration and state government reorganization for the following studies: (1) State-county relationships and financing; (2) Organization, relationships and development planning for the University of Hawaii; and (3) State administration of land records.

EXECUTIVE (20.0)  
421,755

Governor's Office	
Total Requirements.....	463,966(14.0)
Less Estimated:	
Act 209/51.....	250,000
Act 21/49.....	10,000
Net Appropriation.....	203,966(14.0)
Washington Place	
Net Appropriation.....	67,789(6.0)
Governor's Contingent Fund	
Net Appropriation.....	150,000

Provided, that the appropriation for the Governor's Office and Washington Place shall be expended, within each, at the discretion of the Governor.

Provided further, that in the Governor's Office, the sum of \$2,182 shall be used by the director of the International Cooperation Center for visiting State guests for which federal funds are not expendable.

Provided further, that expenditures from the governor's contingency fund may be made with the approval of the governor for urgent needs for which no specific appropriation is made herein; a detailed accounting of all expenditures shall be submitted to the legislature on the first day of the next session of the legislature; and provided further, that this fund shall not be used to pay any salaries in the Governor's Office and Washington Place.

LIEUTENANT GOVERNOR, OFFICE OF THE (9.0)  
122,086

Lieutenant Governor's Office  
Net Appropriation..... 104,236(9.0)

This appropriation shall be expended at the discretion of the Lieutenant Governor.

Elections Administration  
Net Appropriation..... 17,850

PERSONNEL SERVICES, DEPARTMENT OF (39.0)  
310,301

Personnel Services  
Net Appropriation..... 310,301(39.0)

TAXATION, DEPARTMENT OF (317.0)  
2,075,534

Administration  
Net Appropriation..... 198,535(26.0)

Real Property Assessment  
Net Appropriation..... 413,883(61.0)

Tax Maps  
Net Appropriation..... 115,000(21.0)

Excise, Income and Miscellaneous Taxes  
Net Appropriation..... 616,421(105.0)

Field Tax Audits  
Net Appropriation..... 278,055(41.0)

Collection of Taxes  
Net Appropriation..... 330,177(43.0)

Enforcement of Delinquent Taxes  
Net Appropriation..... 114,368(20.0)

Tax Appeals  
Board of Review..... 5,495  
Tax Appeal Court..... 3,600  
Net Appropriation..... 9,095

## JUDICIAL BRANCH

JUDICIAL DEPARTMENT (285.5)  
2,394,282

Supreme Court  
Supreme Court Proper..... 193,910(18.0)  
Office of the Administrative  
Director..... 36,613(3.0)  
Supreme Court Library..... 31,631(4.0)  
Publications—Hawaii Reports..... 28,700  
Revisor of Statutes..... 51,697(4.0)  
Bar Examination Fund..... 700

Total Requirements.....	343,251(29.0)
Less Estimated:	
Special Funds.....	700
Net Appropriation.....	342,551(29.0)
District Court of Kalawao	
Net Appropriation.....	2,520(1.0)
Land Court	
Net Appropriation.....	28,576(3.0)
First Circuit Court	
First Circuit Court Proper.....	692,791(72.0)
Adult Probation.....	103,236(16.0)
Juvenile Court Proper.....	427,001(61.0)
Juvenile Detention Home.....	175,619(30.0)
Net Appropriation.....	1,398,647(179.0)
Second Circuit Court	
Net Appropriation.....	213,257(28.5)
Third Circuit Court	
Net Appropriation.....	281,461(31.0)
Fifth Circuit Court	
Net Appropriation.....	127,270(14.0)

(698.85)  
4,410,367**SUBSIDIES TO COUNTIES AND PRIVATE AGENCIES****QUASI-PUBLIC INSTITUTIONS — TUBERCULOSIS HOSPITALS****Kula Sanatorium**

Tuberculosis Division	
Total Requirements.....	722,048(114.0)
Less Estimated:	
Hospital Receipts.....	21,600
Net Appropriation.....	700,448(114.0)

As a supplement to the estimated receipts for the operation and maintenance of the sanatorium in connection with the tuberculosis treatment program; provided, that this appropriation shall be reduced to the extent that the actual receipts and recoveries shall exceed the estimated sum of \$21,600 for the fiscal year 1961-1962; and provided further, that the appropriation above is intended for an average daily inpatient population of 70 in the Tuberculosis Division.

**Leahi Hospital**

Total Requirements.....	2,049,199(355.75)
Less Estimated:	
Hospital Receipts.....	69,288
Net Appropriation.....	1,979,911(355.75)

As a supplement to the estimated receipts for the operation and maintenance of the tuberculosis hospital for the fiscal year 1961-1962; provided that this appropriation shall be reduced to the extent that the actual receipts and recoveries shall exceed the estimated sum of \$69,288 for the fiscal year 1961-1962; and provided further, that the appropriation above is intended for an average daily inpatient population of 250.

**Puumaile-Hilo Memorial Hospital**

Total Requirements.....	700,582(117.1)
Less Estimated:	
Hospital Receipts.....	12,000
Net Appropriation.....	688,582(117.1)

As a supplement to the estimated receipts for the operation and maintenance of the tuberculosis hospital for the fiscal year 1961-1962; provided, that this appropriation shall be reduced to the extent that the actual receipts and recoveries shall exceed the estimated sum of \$12,000 for the fiscal year 1961-1962; and provided

further, that the appropriation above is intended for an average daily inpatient population of 85.

<b>Samuel Mahelona Memorial Hospital</b>	
Total Requirements.....	556,554(89.0)
Less Estimated:	
Hospital Receipts.....	10,500
Net Appropriation.....	546,054(89.0)

As a supplement to the estimated receipts for the operation and maintenance of the tuberculosis hospital for the fiscal year 1961-1962; provided, that this appropriation shall be reduced to the extent that the actual receipts and recoveries shall exceed the estimated sum of \$10,500 for the fiscal year 1961-1962; and provided further, that the appropriation above is intended for an average daily inpatient population of 55.

#### OTHER SUBSIDIES

<b>Lunalilo Home</b>	
Net Appropriation.....	40,000

#### HOSPITAL SUBSIDIES

<b>City and County of Honolulu</b>	
Net Appropriation.....	110,000
<b>County of Hawaii</b>	
Net Appropriation.....	82,000
<b>County of Maui</b>	
Net Appropriation.....	80,000
<b>County of Kauai</b>	
Net Appropriation.....	29,000

Provided, that the moneys designated after each county shall be paid to each respective board of supervisors or city council, as the case may be, which board or city council shall disburse such funds to any county or private hospitals within its jurisdiction as it deems best.

Provided further, that in the case of the city and county of Honolulu the city council should consider what the county hospital has received in the past. Provided further, that the city council should determine the allotments for other hospitals as it deems best; provided that no rural hospital shall receive less than the 1959-1960 territorial subsidies.

Provided further, that in the case of the county of Kauai, not less than \$11,500 of the appropriation shall be disbursed to the Kauai Veteran's Hospital.

#### FIREBOAT — CITY AND COUNTY OF HONOLULU

Total Requirements.....	157,370(23.0)
Less Estimated:	
Special Funds.....	30,000
Net Appropriation.....	127,370(23.0)

#### VETERANS' CEMETERIES

Net Appropriation.....	17,500
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#### OTHER APPROPRIATIONS

<b>PACIFIC WAR MEMORIAL COMMISSION</b>	
Net Appropriation.....	9,502

**SECTION 2.** The sum of 212,133(26.5), or so much thereof as shall be sufficient to accomplish the purpose, is hereby approved for the Hawaiian Homes Administration Account pursuant to the provisions of Section 213 (f), Hawaiian Homes Commission Act of 1920, as amended, from the proceeds of leasing the available lands as defined in Section 204 of said Act.

Provided, that in the administration program, the positions in the nursery school shall not become surplus until December 31, 1961.

SECTION 3. There is hereby appropriated out of the public trust fund created by Section 5(f) of the Admission Act (Public Law 86-3, 86th Congress), the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom, granted to the state by Section 5(b) or later conveyed to the state by Section 5(e), with the exception of such proceeds covered under Section 99-21, R.L.H. 1955, to be disposed of by the Board of Land and Natural Resources, in order to reimburse the general fund for the appropriation made in Section 1 of this Act to the Department of Education for the support of public schools, to the extent such proceeds are realized for the period beginning August 21, 1959 to June 30, 1961. The above proceeds shall be exclusive of the amounts disposed of under the provisions of the Hawaiian Homes Commission Act, 1920, as amended.

SECTION 4. For the fiscal year 1961-1962, in the absence of legislative appropriations for special funds as provided under Section 2 of Act 320, SLH 1957, departments and establishments shall be authorized to expend so much as is deemed necessary to carry out the purposes of each special fund, as approved by the Governor, or the Director of the Department of Budget and Review if so delegated by the Governor; provided, that such expenditures shall not exceed the monies approved in Section 1 of this Act; and provided further, that the surplus special fund positions shall be controlled and reduced in the same manner as the surplus general fund positions.

SECTION 5. The Governor, or the Director of the Department of Budget and Review if so delegated by the Governor, shall reduce the positions in the departments to the levels as indicated in Section 1 of this Act. Such reductions shall be accomplished by either transferring the incumbents of filled surplus positions to authorized positions or by natural attrition. The following number of positions in each of the departments have been considered surplus:

Departments	No. of Surplus Positions
AGRICULTURE AND CONSERVATION.....	7.5
ECONOMIC DEVELOPMENT.....	—
LAND AND NATURAL RESOURCES.....	19
PLANNING AND RESEARCH.....	—
TRANSPORTATION.....	69
EDUCATION.....	57
HEALTH.....	44
SOCIAL SERVICES.....	56
HAWAIIAN HOME LANDS.....	10.3
DEFENSE.....	—
LABOR AND INDUSTRIAL RELATIONS.....	21
TREASURY AND REGULATION.....	1
ACCOUNTING AND GENERAL SERVICES.....	19
ATTORNEY GENERAL.....	4
BUDGET AND REVIEW.....	3
LIEUTENANT GOVERNOR.....	1
PERSONNEL SERVICES.....	2
TAXATION.....	19
TOTAL.....	332.8

The Governor, or the Director of the Department of Budget and Review if so delegated by the Governor, may designate positions other than those declared to be surplus; provided, that the positions selected shall be of comparable quality and shall not adversely affect the program emphasis or objective.

Each substitution and transfer or attrition shall be reported to the legislature not less than 20 days prior to the next session.

SECTION 6. The reduction of surplus positions shall be accomplished in the following manner :

Where a vacant position has been declared surplus, that position shall be eliminated immediately.

Where a general fund surplus position is filled, the incumbent shall be transferred to an authorized position or the position shall be reduced by attrition. In accordance with Act 1, Second Special Session of 1959, no employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act; provided, that any reclassification of positions shall be in accordance with the existing statutes and with the rules and regulations of the Department of Personnel Services. The salary or compensation for the incumbent of a surplus position shall be paid from the appropriation made to the Department of Budget and Review by Section 7 of this Act and such salary or compensation shall be paid to the incumbent as long as such incumbent remains in such surplus position.

Where a special fund surplus position is filled, the funds to support the incumbent of the surplus position are hereby authorized to be expended but shall be controlled by the Department of Budget and Review and shall be allotted from the appropriate special fund. The other provisions relating to the incumbents of filled general fund positions above shall also relate to the incumbents of filled surplus special fund positions.

SECTION 7. The sum of \$749,737 is hereby appropriated to the Department of Budget and Review for the payment of salaries or other compensation to the incumbents of filled general fund positions. The department is hereby authorized to allot from this fund sufficient amounts of money to ensure the payment of compensation of employees; provided, that no funds shall be allotted if the departments or agencies concerned can finance the cost of the positions from savings.

The department shall report, in detail, all expenditures from this fund to the respective houses of the legislature at least twenty days prior to the next session of the legislature.

SECTION 8. Whenever the functions of a previously existing department, office, or other agency are transferred to any other department by legislation enacted during any session of the legislature which affects the appropriations made by this Act, the Governor, or the Department of Budget and Review if so delegated by the Governor, shall transfer the necessary funds to support such function from the department to which the appropriation was made to the department to which the function has been transferred.

SECTION 9. No funds appropriated in this Act shall be used by a department for the purpose of conducting a study or survey of its management practices or for any other purpose, except as authorized by this Act or any other action of the legislature or by a legislative interim committee.

SECTION 10. The designations referring to divisions, bureaus, offices and other subdivisions of departments are used in this Act for convenience only and such use is not intended to create or confirm the existence of such departmental subdivisions.

SECTION 11. In allotting funds to the Department of Health, Department of Social Services, tubercular hospitals, and other departments, commissions, and agencies having appropriations which are based on population and workload data as specified in this Act, only so much as necessary to provide the level of services intended by the legislature shall be allotted by the Department of Budget and Review. For this purpose, the departments and agencies concerned shall reduce expenditures below appropriations as prescribed by the Department of Budget and Review in the event actual population and workload trend is less than the specified figure. In the event that the trend is higher than the specified figure, the department is authorized to submit a deficiency appropriation request to the extent and on such basis as may be prescribed by the Director of the Department of Budget and Review.

SECTION 12. Except as otherwise provided, transfer of funds between program appropriations within a department may be made by the head of the department upon his certification, and approval by the Director of the Department of Budget and Review, that appropriation balances are or will be available for such transfers after the program objectives intended by the legislature have been accomplished and that such transfers are necessary to accomplish program objectives authorized by the legislature.

SECTION 13. Where the operation of a department or a program is financed by general appropriation as well as by non-general appropriation funds, the general appropriation portion shall be decreased to the extent that the receipt of non-general appropriation funds approved in this Act are exceeded, provided, however, that such decrease shall not jeopardize the receipt of such increased non-general appropriation funds and, provided further, that this section shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the Governor or the Director of the Department of Budget and Review if such authority is so delegated by the Governor.

SECTION 14. The maximum number of positions authorized for the State government during the fiscal year 1961-1962 is the sum of the positions enclosed in parenthesis after the appropriation or approved amounts for State programs, provided, that this section shall not apply to any position required to perform a function or service of a temporary or non-recurring character nor shall it apply to the classroom teaching positions in the Department of Education and the University of Hawaii.

SECTION 15. In the event that House Bill No. 6\* is enacted into law, and special funds of the University and the cat and dog special fund are abolished and receipts and balances in those funds are deposited into the general fund, there is hereby appropriated and the Director of Budget may authorize the University and the Department of Agriculture and Conservation to expend, if necessary, tuition and course fees in the case of the University; and receipts in the case of the cat and dog fund, in excess of the amount specified in this Act as receipts of the respective special funds.

SECTION 16. If any section, subsection, paragraph, sentence, clause, phrase or appropriation contained in this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

SECTION 17. This Act shall take effect from and after July 1, 1961.

(Approved June 17, 1961.) H.B. 39.

\* See Act 184.

**ACT 126**

An Act Providing for the Development of Tuna Netting Techniques in Waters of the Hawaiian Area.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$45,000, or so much thereof as may be necessary to be expended for the purpose of developing tuna netting techniques in waters of the Hawaiian area.

SECTION 2. The sum hereby appropriated shall be made available and shall be expended under the direction and control of the department of agriculture and conservation. The department may contract the services of commercial fishermen, governmental agencies or any other parties. The proceeds which may be realized from the sale of fish caught during the netting operations shall be deposited into the general fund of the State.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1961.) **S.B. 387.**

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**ACT 127**

An Act Relating to Harbor Improvements and Financing Thereof from the Proceeds of Harbor Revenue Bonds Heretofore Issued by the Board of Harbor Commissioners.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Authorization. Subject to the contractual obligations assumed by the board of harbor commissioners of the State of Hawaii under any resolutions heretofore adopted by the board of harbor commissioners under and pursuant to which revenue bonds of the board of harbor commissioners payable solely from the revenues derived from the public undertaking referred to in such resolutions are now outstanding, the board of harbor commissioners is hereby authorized to expend the proceeds of harbor revenue bonds authorized and issued pursuant to the provisions of Act 103, Session Laws of Hawaii 1957, for the following purposes for which the proceeds of the sale of such harbor revenue bonds are hereby appropriated, that is,

**HARBOR AND WATERFRONT IMPROVEMENTS**

(To be expended under the direction of the board of harbor commissioners.)

1. For improvement of Honolulu Harbor, including additional freight terminal facilities, expansion of containerization facilities, relocation of public health service boat harbor, alteration of existing piers and harbor facilities, construction of barge wharf, reclamation of land, plans, dredging, improvements to the land, acquisition of land and other necessary expenses for the improvement of the harbor facilities in Honolulu Harbor .....\$5,350,000.00
2. For improvement of Hilo Harbor, including plans, dredging, construction and extension of wharves, acquisition of



- |   |                |
|---|----------------|
| land, and other necessary expenses for the improvement of the harbor facilities in Hilo Harbor .....  | \$ 150,000.00  |
| 3. For improvement of Kahului Harbor, Maui, including plans, dredging, creation of filled land, improvements to land, acquisition of land, construction of wharves, sheds, apron and other works, property or structures necessary for the improvement of Kahului Harbor..... | \$1,000,000.00 |

The public undertaking, the revenues of which are hereby charged with the payment of the principal and interest of all of said harbor revenue bonds, is the public undertaking heretofore described in the proceedings under which said bonds have been issued and are outstanding, to-wit: All of the harbor and waterfront improvements and other properties under the jurisdiction, control and management of the board of harbor commissioners, except such as are principally used for recreation or the landing of fish, but such exception shall not apply to the properties under the jurisdiction, control and management of said board at Kewalo Basin, ewa of Ala Moana Park, Honolulu.

SECTION 2. Notwithstanding any other provision in the statute to the contrary, the board of harbor commissioners, from the harbor board special fund, is hereby authorized to pay the costs of obtaining the consent of the holders of the issued and outstanding harbor revenue bonds to the use and application of the proceeds of the sale of said bonds to any or all of the propositions authorized by this Act and all other expenses, including plans, surveys, appraisals, engineering reports, and reports and approvals of financial consultants and attorneys for the purpose of carrying out the purposes and intent of this Act.

In case the amount specified in any item of section 1 shall not be wholly required to complete the work on such item, the unrequired balance may, after the completion of said work, or after it is definitely found by the board of harbor commissioners that not more than a specified amount, less than the whole amount, will be required to complete said work, be expended by the board of harbor commissioners for the work specified in any other item. Notwithstanding any other provision in the statute to the contrary, by resolution of the board of harbor commissioners, funds from the harbor board special fund may be used to supplement funds for any item.

The authority hereby vested in the board of harbor commissioners of the State of Hawaii may be exercised by any successor to said board of harbor commissioners, including the department of transportation of the State of Hawaii when and if the functions, duties and powers of the board of harbor commissioners of the State of Hawaii shall be transferred to said department of transportation pursuant to law.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1961.) **S.B. 896.**

**ACT 128**

An Act Relating to Medical Care of Indigents and Medical Indigents.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The functions and authority heretofore exercised by the various counties of the State with respect to medical care of the indigent and medical indigent pursuant to Chapter 48, Revised Laws of Hawaii 1955, as amended, are hereby transferred to the Department of Social Services as established by Hawaii State Government Reorganization Act of 1959.

SECTION 2. Chapter 48, Revised Laws of Hawaii 1955, as amended, is hereby repealed in its entirety.

SECTION 3. Section 108-31, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 108-31. Aged persons.** A person shall be eligible for public assistance who:

(a) Is in need and has not sufficient income or other resources to provide a subsistence compatible with decency and health; and

(b) Is sixty-five years of age or more; provided that, in the event that the minimum age for determining eligibility for old age assistance under the federal laws is reduced, the minimum age prescribed by this paragraph shall thereby automatically be reduced to conform to such federal minimum, but in no case below sixty years."

SECTION 4. The last paragraph of Section 20, Hawaii State Government Reorganization Act of 1959, is hereby amended to read as follows:

"The functions and authority heretofore exercised by the department of public welfare, the department of institutions (except for Waimano home and the State hospital transferred to the department of health), the boards of prison inspectors, the bureau of sight conservation and work with the blind, the council on veterans' affairs, and any other agency of the State or county governments with respect to the assistance and care of the indigent and medical indigent as heretofore constituted are hereby transferred to the department of social services established by this Act."

SECTION 5. Section 108-1, Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(a) By redefining "public assistance" to read as follows:

"'Public assistance' means money payments to or for the benefit of persons whom the department has determined to be without sufficient means of support to maintain a minimum standard of living compatible with decency and health, including payments to or on behalf of such persons for medical care."

(b) By adding thereto a definition of "medical care" to read as follows:

"'Medical care' means all kinds of medical care, dental care and maternity care, including surgical and hospital care, eye care (which includes optical appliances), materials, supplies and all other appliances used in the care, treatment and rehabilitation of patients, and hospitalization."

SECTION 6. Section 108-7(a), Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"(a) Administer, establish programs and standards, and promulgate rules as may be deemed necessary for all public assistance, including payments for medical care."

SECTION 7. The first sentence of Section 108-36, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"The amount of public assistance granted, including funds received from the federal government, shall not exceed in the case of any applicant and his dependents an amount in excess of that determined upon investigation or by the decision of the department to be compatible with maintaining decency and health, including payments to or on behalf of such persons for medical care."

SECTION 8. The second sentence of Section 108-43, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

"The amount or value of such assistance shall not exceed such minimum as in the judgment of the department will provide for the minimum needs (including food, shelter, clothing, utilities and incidentals) compatible with the maintenance of decency and health, including payments to or on behalf of such persons for medical care, of such applicant and his dependents."

SECTION 9. All employees of the counties whose functions are transferred to the state by this Act and whose services are not required by the respective counties shall be transferred to the Department of Social Services and shall continue to perform their duties upon their transfer, subject to provisions of state civil service laws, federal merit system requirements, and the Hawaii State Government Reorganization Act of 1959.

Every civil service employee or officer of the county who may be transferred to a State civil service position as a consequence of the transfer of the function herein concerned to the Department of Social Services, shall be continued as a civil service employee or officer, in the position to which transferred without change in civil service status, reduction in salary range, loss of vacation or sick leave allowances, service credits or other rights and privileges and without the necessity of examination; provided, that such employee or officer possesses the minimum qualifications for the position to which he is transferred.

SECTION 10. Payments to meet the cost of medical care of medical indigents eligible under county standards of eligibility at the time of the effective date of this Act and who are found ineligible under state-wide standards shall be provided for by the respective counties in which the medical indigent resides, provided that the counties shall be responsible only for the cost of care for such eligible medical indigent for the duration of the treatment authorized by the county or until such time that he becomes eligible under the State's eligibility requirements, whichever occurs sooner.

SECTION 11. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, for the fiscal period ending June 30, 1962, the sum of \$60,000 or so much thereof as may be necessary, to the Department of Social Services for the necessary personnel and office expenses.

SECTION 12. This Act shall take effect on June 30, 1961.

(Approved June 23, 1961.) **S.B. 141.**

**ACT 129**

An Act Making an Appropriation to the Department of Economic Development for the Disaster Resulting from the Tsunami of May 23, 1960.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the State, not otherwise appropriated, the sum of \$90,000, or so much thereof as may be necessary, to the department of economic development to be expended by the administrator for the loans authorized by Act 6, Special Session Laws of Hawaii 1960, for the disaster resulting from the tsunami of May 23, 1960.

SECTION 2. Notwithstanding any provision of Act 6, Special Session Laws of Hawaii 1960, to the contrary, applications for loans as a result of the disaster resulting from the tsunami of May 23, 1960, shall be made in the form prescribed for that purpose by the administrator and shall be filed with the administrator on or before June 30, 1961.

SECTION 3. Any unexpended balance existing on June 30, 1961 and all receipts from the loans made in accordance with the provisions of Section 1 of this Act shall be deposited by the Director of the Budget to the credit of the general fund of the State.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 28, 1961.) **S.B. 1124.**

**ACT 130**

An Act Providing for Two Paydays a Month for Public Employees and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 5, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new subsection to be numbered and to read as follows:

**"Sec. 5-14.5. Salary periods.** All employees shall be paid at least semi-monthly unless otherwise provided by law."

SECTION 2. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$57,200, or so much thereof as may be necessary, to the department of accounting and general services to carry out the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1961.

(Approved June 30, 1961.) **S.B. 217.**

ACT 131

A Bill for an Act Relating to an Appropriation for Capital Improvement.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Item 9b, relating to civil defense, under subsection A of section 1(a) of Act 23, Session Laws of Hawaii 1960, is hereby amended to read as follows:

"b. Blast and fallout protection for Birkheimer Tunnel,  
Diamond Head Crater.....50,000.00"

SECTION 2. This Act shall take effect upon its approval.

(Approved June 30, 1961.) **H.B. 312.**

ACT 132

An Act Amending Act 1 of the First State Legislature, Second Special Session 1959, Relating to the Department of Agriculture and Conservation, the Department of Land and National Resources and Functions Relating Thereto.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 1 of the First State Legislature, Second Special Session 1959 (Hawaii State Reorganization Act of 1959) is hereby amended in the following respects:

(a) By deleting the words "department of agriculture and conservation", "board of agriculture and conservation" and "director of agriculture and conservation" wherever found in said Act and substituting the words "department of agriculture", "board of agriculture" and "director of agriculture", respectively.

(b) By amending the third paragraph of section 21 by adding a period after the word "board" on line 4 of said paragraph and deleting the rest of the sentence.

(c) By amending the fourth paragraph of section 21 to read as follows:

"The department shall manage and administer the public lands of the State and the water resources and minerals thereon; shall manage and administer the forest, fish and game resources of the State; and manage the forest reserve and state parks, including historical sites."

(d) By adding the following words after the word "parks" in the seventh paragraph of section 21: "and the function of promoting the conservation, development and utilization of forest, including the regulatory powers over the forest reserve, fish and game resources of the State."

(e) By deleting the last paragraph of section 21.

(f) By amending section 22 to read as follows:

**"Sec. 22. Department of agriculture.** The department of agriculture shall be headed by an executive board to be known as the board of agriculture.

The board shall appoint and may remove an executive officer to be known as the director of agriculture.

The composition of the board shall be as heretofore provided by law for the board of commissioners of agriculture and forestry existing immediately prior to November 25, 1959, with the addition of the director of agriculture who shall be an ex officio voting member of the board.

The department shall promote the conservation, development and utilization of agricultural resources in the State; assist the farmers of the State and any others engaged in agriculture by research projects, dissemination of information, crop and livestock reporting service, market news service and any other means of improving the well being of those engaged in agriculture and increasing the productivity of the lands, and administer the programs of the State relating to animal husbandry, entomology, soil conservation, farm credit, development of agricultural products and the establishment and enforcement of the rules and regulations on the grading and labeling of agricultural products.

The functions and authority heretofore exercised, by the board of commissioners of agriculture and forestry (except the management of state parks and the conservation, development and utilization of forest resources, including regulatory powers over the forest reserve provided in Act 234, Session Laws of Hawaii 1957, and of fish and game resources transferred to the department of land and natural resources), by the Hawaii soil conservation committee and the farm loan board as heretofore constituted, and by the University of Hawaii with respect to the crop and livestock reporting service and market news service, are hereby transferred to the department of agriculture established by this Act."

(g) By deleting section 23 in its entirety.

(h) By deleting the words "the development and promotion of the products of agriculture" and substituting therefor the words "the promotion of the products of agriculture and the development and promotion of" and by deleting the words "farm and" in the second paragraph of section 25.

(i) By deleting the words "the board of commissioners of agriculture and forestry with respect to the establishment of rules and regulations on the grading and labeling of agricultural products, the farm loan board," in the fourth paragraph of section 25.

SECTION 2. Amendment of conflicting laws. All laws and parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith. All Acts passed during this General Session 1961, whether enacted before or after the passage of this Act, shall be amended to conform to this Act, unless such Acts specifically provide that this Act is being amended.

SECTION 3. Formulation of program. The department of agriculture shall formulate a program for the definition and attainment of the State's objectives in the field of agriculture, and shall submit such program together with requested appropriations and recommended staffing, to the 1962 Budget Session of the Legislature of the State of Hawaii.

SECTION 4. Transfer. The functions and authority transferred by this Act shall be transferred as of July 1, 1961, together with personnel, appropriations, records, equipment and other property employed in performing the functions; provided that the crop and livestock reporting service and market news service functions of the University of Hawaii need not be transferred to the department of agriculture as of July 1, 1961, but shall be transferred as expeditiously as possible without disruption of the service

## ACT 133

or the removal or transfer from the University of equipment or personnel needed for other functions of the University.

SECTION 5. This Act shall take effect on July 1, 1961.

(Approved June 30, 1961.) **S.B. 363.**

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## ACT 133

An Act Relating to Sick Leave for Public Officers and Employees.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 5-39 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the second paragraph to read as follows:

"Sick leave allowances shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year. The sick leave provided for in this section, which is not used by an officer or employee during the year in which it accrues, shall accumulate and be available for use in succeeding years. Whenever it is deemed necessary, particularly when an abuse is indicated, a department head shall have the authority to investigate any absence for which sick leave, with pay, is indicated. Upon finding that the employee's claim of illness was falsely made, the department head shall take proper disciplinary action in accordance with the rules and regulations governing such matters. A licensed physician's certificate shall be required only when absences are five or more consecutive working days. Additional sick leave with pay, in excess of that which the officer or employee is entitled to, may be granted with the written approval of the governor, mayor or chairman of the board of supervisors, as the case may be, provided, that due consideration shall be given to the length of service of the particular employee requesting an excess of that to which he is entitled."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 238.**

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## ACT 134

An Act Relating to Public Utilities.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. (a) Subject to Act 1, Second Special Session of the First State Legislature 1959, the provisions of chapter 104 of the Revised Laws of Hawaii 1955, as amended by this Act, and all other laws concerning the functions, powers and duties of the public utilities commission are continued as laws of the State.

(b) Insofar as the Act of March 28, 1916 (39 Stat. 38, c. 53) constitutes a territorial law enacted by Congress of the United States which might terminate on August 21, 1961, pursuant to the proviso of section 15 of the Act of March 28, 1959 (73 Stat. 11), the provisions of this Act shall be deemed to amend the Act of March 28, 1916.

(c) The public utilities commission is hereby authorized and directed to assume all of the functions, powers and duties pertaining to it under the constitution and laws of the State in respect to its increased jurisdiction.

SECTION 2. The following franchises which were granted by the Territory of Hawaii with the approval of the Congress of the United States and are now in existence, which may expire on August 21, 1961 :

Electric Light and Power, Hana (Hana Ice and Electric)  
 Electric Light and Power, Hana (A. F. Tavares)  
 Electric Light and Power, Honolulu  
 Hilo Electric Light Co., Ltd.  
 Electric Light and Power, Hamakua  
 Electric Light and Power, North Kona & South Kona  
 Electric Light and Power, Districts of Waimea and Koloa, Island and County of Kauai  
 Electric Light and Power, Waimea and Kekaha  
 Electric Light and Power, Hanalei  
 Electric Light and Power, Lihue and Koloa  
 Electric Light and Power, District of Kawaihau  
 Electric Light and Power, Lahaina  
 Electric Light and Power, Wailuku  
 Gas and Electric Light and Power, Wailuku and Makawao  
 Electric Light and Power, Molokai  
 Gas, Honolulu  
 Gas, South Hilo  
 Honolulu Rapid Transit and Land Company

shall continue in effect ; provided, that each and every such franchise shall be amended as follows :

(a) That all references to the Territory of Hawaii are hereby amended to read State of Hawaii ;

(b) That the legislature of the State of Hawaii, and it alone, may at any time hereafter alter, amend or repeal any such franchise, and the approval of congress shall not be required for alteration, amendment or repeal ;

(c) That no such franchise shall grant or be construed to grant any exclusive right or privilege, and no franchise shall limit or be construed to limit the power of the legislature of the State of Hawaii to grant additional franchises for the operation of competitive or other public utilities ;

(d) That no such franchise shall limit or be construed to limit the power of the public utilities commission of the State of Hawaii or any other officer or agency of the State of Hawaii under chapter 104 of the Revised Laws of Hawaii 1955, or any amendments thereto, or under any laws of the State of Hawaii.

SECTION 3. All rights granted in each and every franchise aforementioned to acquire property shall be further amended to read as follows :

"The said company shall have the right to acquire, hold or take over, either by purchase or lease, property, both real, personal or mixed, as may be necessary for the proper conduct of its business, but said company shall not have power or right to acquire the franchise or property of any other public utility company, except with the approval of the public utilities commission."



SECTION 4. All rights granted in each and every franchise aforementioned to install equipment in, on, above, along, or under public rights of way shall be further amended to read as follows:

"Effective July 1, 1962 the company shall have the right to place, construct, erect, or otherwise build poles, wires, pipes, and other appurtenances in, on, above, along, or under public rights of way which right shall be exercised only upon the approval of the public utilities commission based upon its written findings that the proposed installation meets standards prescribed by the commission governing such installations; provided that the approval of the public utilities commission shall not be required with respect to such installations in federal aid highway rights of way."

SECTION 5. The franchise held by the Hawaiian Electric Company, Limited, shall be further amended by changing the language of section 10 thereof to read as follows:

"Section 10. Annual payments to City and County of Honolulu. The said company shall within one month after the expiration of each calendar year, file with the public utilities commission a statement showing the gross receipts from the sale of electric light and power furnished by the company on the Island of Oahu and shall at the same time pay to the treasurer of the City and County of Honolulu two and one-half per centum of the gross receipts of the company from all electric light or power furnished to consumers on the Island of Oahu during the preceding calendar year."

SECTION 6. Any corporation covered by this Act and having the power of eminent domain under section 8-4, Revised Laws of Hawaii 1955, and any corporation having the power of eminent domain under section 8-38, Revised Laws of Hawaii 1955, may continue to exercise such power, provided, that prior to the exercise of the power,

(a) the corporation submits to the public utilities commission its intention to exercise the power, with a description of the property to be condemned;

(b) the public utilities commission finds that the proposed condemnation is in the public interest, that the proposed condemnation is necessary, and that the corporation will use the property, for its operations as a public utility.

SECTION 7. Nothing in this Act shall be construed as granting to any of the public utilities a franchise in any of its certificated or regulated areas. Any person who prior to the enactment of this Act was certified or regulated by the public utilities commission shall continue to be so certificated or regulated in all respects as though this Act had not been passed.

SECTION 8. Nothing in this Act shall be construed as an admission on the part of the State that the holder of the franchise is presently engaged in the type of business provided for in said franchise.

SECTION 9. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 647.**

**ACT 135**

An Act Amending Chapter 180, Revised Laws of Hawaii 1955, as Amended, Relating to Building and Loan Association.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend chapter 180 of the Revised Laws of Hawaii 1955, as amended, by adding a new section to be appropriately numbered and to read as follows:

**"Sec. 180- . Savings or share accounts as legal investments and as security for bonds; multiple trust accounts.** Any administrator, executor, custodian, guardian, trustee, or other fiduciary, insurance company, business or manufacturing company, bank, escrow company, credit union or other financial institution, and any charitable, educational, or eleemosynary corporation or organization, may invest funds held by him or it without any court order, in savings or share accounts of any insured savings association under state supervision, or in accounts of any federal savings and loans association organized under federal law and under federal supervision, and such investments shall be considered legal investments. Such investments may be made directly or through a trustee appointed by such entity under a trust agreement naming such entity as sole beneficiary thereunder. Such entity may establish such a trust and each trust established under a trust agreement authorized by this section shall be valid from the date of its establishment, provided, that it does not violate the rule against perpetuities.

If a deposit of security is required for any purpose, legal investments under this section shall be acceptable as such deposit.

If a bond is required with security, such bond may be furnished, and the legal investments under this section in the amount of such bond, when deposited therewith, shall be acceptable as such security.

This section is supplemental to any law relating to legal investments for any person, corporation or organization referred to in this section and to any law relating to the deposit of securities and the making or filing of bonds with security."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 674.**

**ACT 136**

An Act Relating to Sales of Securities and Providing for Control of Sales of Securities Issued by Residential Cooperative Corporations.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Subsection (m) of section 199-5, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"(m) Any offer or sale by or through a real estate broker or real estate salesman licensed under the laws of the State as such, of a security issued by a corporation organized under the laws of the State, the holder of which is entitled solely by reason of his ownership thereof, to occupy for dwelling purposes, or to a lease which entitles such holder to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation, subject, however to the provisions of section 199-5.5."

SECTION 2. There is hereby enacted a new section of chapter 199, Revised Laws of Hawaii 1955, as amended, to be numbered and to read as follows:

**"Sec. 199-5.5. Securities issued by residential cooperative corporations.** In order to be entitled to the exemption provided by subsection (m) of section 199-5, the issuer of a security defined in such subsection shall make application for such exemption to the commissioner on such form and containing such information as the commissioner may prescribe. If the commissioner finds that the proposed plan of business of the applicant and the proposed issuance of securities are fair, just and equitable, that the applicant intends to transact its business fairly and honestly, and that the securities that the applicant proposes to issue and the method to be used by the applicant in issuing or disposing of such securities are not such as, in the opinion of the commissioner, will work a fraud upon the purchaser thereof, the commissioner shall issue to the applicant a permit authorizing the applicant to issue and dispose of the securities in this State in the manner provided in subsection (m) of section 199-5 and in such amounts and for such consideration as the commissioner may provide in the permit. Otherwise, the commissioner shall deny the application and refuse the permit and notify the applicant in writing of such decision, and the exemption of subsection (m) of section 199-5 shall not apply, subject to appeal as provided in section 199-19.

In any permit issued under this section, the commissioner may impose conditions requiring the deposit in escrow of any or all securities, the impoundment of the proceeds from the sale thereof, approval of advertising material, any of the conditions set forth in section 199-14, and such other conditions as the commissioner deems advisable for the protection of the public and the purchasers of the securities. The commissioner may act as escrow holder for securities required to be deposited in escrow by his order or as a necessary signatory on any account in which impounded proceeds from the sale of escrowed securities are deposited."

SECTION 3. This Act shall take effect upon its approval, but shall not apply to or affect any transaction entered into prior to such effective date nor to any security of the type defined in subsection (m) of section 199-5, Revised Laws of Hawaii 1955, issued prior to July 1, 1961.

(Approved July 5, 1961.) **S.B. 784.**

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## ACT 137

An Act to Amend Act 74, Session Laws of Hawaii 1957, as Amended Relating to Agricultural Unemployment Compensation.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The existing sections of the new chapter of the Revised Laws of Hawaii 1955, enacted by section 1 of Act 74, Session Laws of Hawaii 1957, as amended by any law enacted by the Thirtieth Legislature of the Territory of Hawaii, are hereby designated as Title I of Chapter 93A, Revised Laws of Hawaii 1955.

SECTION 2. Act 74, Session Laws of Hawaii 1957, is hereby amended by adding to the new chapter of the Revised Laws of Hawaii 1955, enacted

by section 1 of said Act 74, an additional Title, which shall be designated Title II of Chapter 93A, Revised Laws of Hawaii, and the sections of which shall be appropriately numbered by the Revisor of Statutes, reading as follows:

## **“TITLE II**

**Section 201. Definitions, generally.** As used in this Title II, unless the context clearly requires otherwise:

(a) ‘Agricultural Employer’ means any employer with respect to whom the director, pursuant to section 93-77, has excluded from employment within the meaning of chapter 93 services performed for him which constitute agricultural labor, as defined in section 93-9.

(b) ‘Agricultural labor’ means services which is agricultural labor, as defined in section 93-9, and which is also employment within the meaning of chapter 93. If the services performed during more than one-half of any pay period by an individual for the person employing him constitute agricultural labor, all the services of such individual for such period shall be deemed to be agricultural labor; but if the services performed during one-half or more of any such pay period by an individual for the person employing him do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed to be agricultural labor.

(c) ‘Pay period’ means a period (of not more than thirty-one consecutive days) for which a payment or remuneration is ordinarily made to the individual by the person employing him.

(d) Except as provided in this Title II, or otherwise inconsistent with this Title II, all of the terms used in this Title II shall have the meanings defined in chapter 93.

**Sec. 202.** Every individual to whom benefits would have been payable pursuant to chapter 93, were it not for the fact that the services with respect to which such benefits would have been payable have been excluded from employment within the meaning of chapter 93 by the operation of section 93-77, shall be paid benefits pursuant to this Title II in such amount that the total amount of the benefits paid pursuant to chapter 93 and this Title II shall be the same as the amount of the benefits which would have been payable pursuant to chapter 93 had such services not been so excluded. This section shall be interpreted and applied so that all of the wages paid to any individual for services which constitute employment within the meaning of chapter 93 and all of the wages paid to such individual for services which constitute agricultural labor within the meaning of this Title II shall be combined for the purpose of determining such total amount of benefits. Payment of such benefits shall be made by the director at such times and in such amounts and subject to such conditions that the benefits paid to the individual pursuant to chapter 93, if any, and pursuant to this Title II, shall at all times be equivalent to the benefits which would have been payable to the individual pursuant to chapter 93 had such services not been so excluded.

**Sec. 203.** A claim for benefits under chapter 93 shall constitute a claim for benefits under this Title II. For the purpose of determining the benefits (including weekly benefit amount, maximum total benefits in benefit year, benefits of seasonal workers, qualifying wages, eligibility, disqualifications, and all other matters referred to in Part II of chapter 93) which would have been payable pursuant to chapter 93 had there been no exclusion of services

from employment within the meaning of chapter 93 by the operation of section 93-77, except as provided in this Title II or otherwise inconsistent with this Title II all of the provisions of chapter 93 shall be applicable, mutatis mutandis, to all matters covered by this Title II, and are incorporated by reference as fully and effectually to all intents and purposes as if repeated in this Title II.

Sec. 204. (a) Every agricultural employer shall pay to the director the amount of all benefits paid by the director pursuant to this Title II for his account, notwithstanding any termination of the exclusion from employment within the meaning of chapter 93 of services performed for him which constitute agricultural labor. If any employer shall succeed to or acquire the organization, trade or business of an agricultural employer, the successor in interest is hereby required to assume the liability of the predecessor employer with respect to payments by the director for the account of the predecessor employer.

(b) Benefits paid to an individual under this Title II shall be charged to the accounts of his base period agricultural employers and the amount of benefits so chargeable against each base period agricultural employer's account shall bear the same ratio to the total benefits paid to the individual under this Title II as the base period wages paid to the individual by such agricultural employer bear to the total amount of base period wages paid to the individual by all of his base period agricultural employers. For the purposes of this section, the base period of the individual shall be the period used in determining the amount of the benefits which would have been payable to the individual pursuant to chapter 93 had agricultural labor not been excluded from employment, and the base period wages paid to the individual shall include only the wages paid for agricultural labor by agricultural employers.

Sec. 205. There is hereby established in the treasury of the State a special revolving fund, to be known as the agricultural unemployment compensation revolving fund, into which all payments made pursuant to section 204 of this Title II shall be paid. The sum of \$40,000, which is hereby appropriated from the general revenues of the State not otherwise appropriated shall also be paid into said revolving fund.

Sec. 206. (a) There is hereby established in the treasury of the State a special fund, to be known as the agricultural unemployment compensation administration fund, into which there shall be paid all payments specified in this section.

(b) Every agricultural employer subject to this Title II shall pay to the director during the period that he is subject to this Title II, an assessment equal to  $\frac{1}{20}$  of 1% of his annual payroll. If, on the basis of the cost of the administration of this Title II during the preceding two calendar quarters, the director shall determine that said fund is insufficient to defray the estimated cost of such administration for the next two calendar quarters, then the rate of said assessment shall be increased to  $\frac{1}{10}$  of 1%, effective as of the beginning of the first of said next two calendar quarters, which increased rate shall remain in effect until the director shall determine, on the basis of the cost of administration of this Title II during the preceding two calendar quarters, that such fund is sufficient to defray the estimated cost of such administration for the next four calendar quarters in which case the rate of said assessment shall be reduced to  $\frac{1}{20}$  of 1%, effective as of the beginning

of the first of said next four calendar quarters. Assessments shall become due and be paid by each agricultural employer in accordance with such regulations as the director may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(c) For purposes of this section:

(1) 'Annual payroll' means the total amount of wages for agricultural labor paid by an agricultural employer during a calendar year; and

(2) 'Wages' shall not include remuneration in excess of the amount fixed by section 93-60(b) paid with respect to employment (whether agricultural labor or not) to an individual by an agricultural employer during any calendar year.

**Sec. 207. Liens, foreclosure.** The claim of the director against an agricultural employer for any amount due under this Title II shall be a lien upon the property of such agricultural employer as provided by section 115-37.5 and the powers conferred on the director of taxation by that section are conferred on the director of labor and industrial relations, and the lien may be foreclosed in a court proceeding or by distraint under section 93-70(b).

**Sec. 208. Priorities under legal dissolutions or distributions.** In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceedings, any payment required of an agricultural employer under this Title II shall be paid in full prior to all other claims except taxes and claims for wages of not more than \$300 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, any payment required of an agricultural employer under this Title II shall be entitled to such priority as is provided in section 64(a) of that act (11 U.S.C. Sec. 104(a), as amended.)

**SECTION 3.** Section 93A-38, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 93A-38. Nonliability of State.** (a) Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter, and to the extent that moneys are available therefor to the credit of a base period agricultural employer's or employers' reserve account or accounts, or to the credit of the revolving fund in case of eligible employees of agricultural employers exempted from payment of contributions, and the board shall not be liable for any amount in excess of such sums.

(b) Neither the board nor any officer or employee of the State shall be liable to any agricultural employer with respect to the payment of any benefit in the absence of gross negligence or intent to defraud such agricultural employer."

**SECTION 4.** Sections 93A-31 to 93A-34, inclusive, section 93A-38, as amended herein, and section 93A-39 of Title I of said Chapter 93A, shall be applicable to Title II of said Chapter 93A and shall be deemed a part thereof.

**SECTION 5.** This Act shall not repeal or otherwise affect the provisions of section 93-155, Revised Laws of Hawaii 1955.

**SECTION 6.** This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 795.**

**ACT 138**

An Act to Amend Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 93, Revised Laws of Hawaii 1955, is hereby amended by adding thereto, immediately after Section 93-76, a new section to be numbered 93-77, reading as follows:

**"Sec. 93-77.** (a) An employer may apply to the director for the exclusion from employment within the meaning of this chapter of all services performed for him which constitute agricultural labor as defined in section 93-9. The director shall grant such exclusion if the applicant:

(1) Files with the director a written election that the benefits payable with respect to all services performed for such employer which constitute agricultural labor as defined in section 93-9 shall be governed by and determined under the provisions of chapter 93A. The written election shall be in a form prescribed by the director.

(2) Also furnishes proof satisfactory to the director of his solvency and financial ability to pay to the director the amount of all benefits paid by the director pursuant to chapter 93A for his account or furnishes a bond or other security acceptable to the director conditioned upon the making of such payments.

(b) Any exclusion granted pursuant to this section shall be retroactive to the beginning of the calendar quarter in which such written election was filed with the director. Such exclusion shall remain in effect for a period of not less than four consecutive calendar quarters and thereafter until the employer gives written notice to the director of his election to terminate such exclusion; provided, that the director may terminate such exclusion if he finds that the employer fails to continue to meet the requirements of section 93-77(a) (2). Termination of such exclusion under this section shall not become effective until the end of the quarter in which notice is given.

(c) During the effective period of the exclusion granted to such employer pursuant to this section, no agricultural labor performed for such employer shall be deemed to be employment within the meaning of this chapter. The benefits payable to any individual with respect to agricultural labor performed for such employer during such period shall be governed by and determined under the provisions of chapter 93A.

(d) If the services performed during more than one-half of any pay period by an individual for the person employing him constitute agricultural labor, all the services of such individual for such period shall be deemed, for the purposes of this section, to be agricultural labor; but if the services performed during one-half or more of any such pay period by an individual for the person employing him do not constitute agricultural labor, then none of the services of such individual for such period shall be deemed, for the purposes of this section, to be agricultural labor. As used in this paragraph, the term 'pay period' means a period (of not more than thirty-one consecutive days) for which a payment or remuneration is ordinarily made to the individual by the person employing him."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 5, 1961.) S.B. 796.

### ACT 139

An Act Relating to Flowers and Foliage, Redefining Commercial Exporter and Providing for Labeling.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 22-26.2, Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the definition of "commerical exporter" set forth in such section to read as follows:

"'Commercial exporter' means any person who exports or causes to be exported from the State of Hawaii: (1) any fresh or processed flowers or foliage to a wholesaler or retailer for sale or resale or for distribution for commercial promotional purposes, or (2) any fresh or processed flowers or foliage as a gift for subsequent sale or resale."

SECTION 2. Section 22-26.3, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Section 22-26.3. Rules and regulations.** The board shall have the necessary powers to carry out and effectuate the purposes of this part, including the following:

To establish, prescribe, modify or alter, by rules and regulations, which shall have the force and effect of law, grades, standards and classifications for fresh and processed flowers and foliage, and minimum requirements for fresh and processed flowers and foliage destined for shipment by commercial exporters to points outside, and minimum requirements for containers, packing, materials, methods of packing and requirements for labeling to be used in packaging fresh and processed flowers and foliage destined for shipment by commercial exporters to points outside the State.

The board in establishing such rules and regulations shall consult with appropriate state and federal agencies and with any appropriate industry or trade organization. The grades, standards, classifications, minimum requirements for flowers and foliage and requirements for containers, packing material, methods of packing and labeling shall be on the basis of what the board may deem best suited to the agricultural, horticultural, or other interests of the State."

SECTION 3. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 813.**

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### ACT 140

An Act Granting Service Credit in the Employees' Retirement System to Certain Employees.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Any employee of any water company who was in the year 1953 transferred to the service of the city and county of Honolulu or any other county following the purchase of such water company by the city and county of Honolulu or any other county shall, upon payment by him to the employees' retirement system of the State the contributions which he normally would have paid to the employees' retirement system of the State if



he had been in the service of the city and county of Honolulu or any other county during his period of service with such water company, be entitled to and given service credit according to such contribution for such period; provided, that application for the purchase of such service credit shall be filed by the employee with the board of trustees of the employees' retirement system of the State within three years from the effective date of this Act, and that notice thereof be given concurrently therewith to the city council of the city and county of Honolulu or the board of supervisors of the other counties, as the case may be.

SECTION 2. The city council of the city and county of Honolulu or the board of supervisors of the other counties, as the case may be, is directed to appropriate and pay to the employees' retirement system of the State sufficient funds to pay the government's share of retirement contributions, plus interest, to match each contribution of each employee referred to in section 1 of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 829.**

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## ACT 141

An Act Amending Chapter 93, Revised Laws of Hawaii 1955, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 93-7(i) of Chapter 93, Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting therefrom item (ii) of paragraph (1) in its entirety and paragraph (2) in its entirety.

SECTION 2. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 849.**

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## ACT 142

An Act Relating to the Modification of Certain Fees and Penalties of Certain Boards and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 58 of the Revised Laws of Hawaii 1955, as amended, relating to the practice of barbering, is hereby further amended in the following respects:

(a) By amending section 58-11(a) to read as follows:

"(a) The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice barbering shall be \$15. The fee to be paid by an applicant for an examination to determine his fitness to receive a certificate of registration to practice as an apprentice shall be \$10."

(b) By deleting the sum "\$2" appearing in section 58-11(b) and inserting in lieu thereof the sum "\$4".

(c) By deleting the sum "\$1.50" appearing in section 58-11(c) and inserting in lieu thereof the sum "\$3.00".

(d) By amending section 58-11(d) to read as follows:

"The fee to be paid by an applicant to conduct a barber shop shall be \$25. The fee to be paid for the annual renewal of a certificate shall be \$7 and for the restoration of an expired certificate \$7."

SECTION 2. Chapter 59 of the Revised Laws of Hawaii 1955, as amended, relating to the regulation of beauty culture, is hereby further amended in the following respects:

(a) By deleting the sum "\$2" appearing in section 59-11 and inserting in lieu thereof the sum "\$3".

(b) By deleting the sum "\$15" appearing in the first sentence of the first paragraph of section 59-13 (a) and inserting in lieu thereof the sum "\$20".

(c) By deleting the sums "\$15" and "\$7.50" appearing in the last sentence of the first paragraph of section 59-13(a) and inserting in lieu thereof the sum "\$20" and "\$10", respectively.

(d) By deleting the sum "\$2" appearing in section 59-16(c) and inserting in lieu thereof the sum "\$3".

(e) By amending section 59-16(d) to read as follows:

"(d) Renewal after lapse. The certificate of an apprentice operator or instructor shall be reinstated upon payment of all delinquent fees and a penalty of \$10 if application is made within three years after lapse."

(f) By deleting the sum "\$10" appearing in section 59-18(a) and inserting in lieu thereof the sum "\$15".

(g) By deleting the sum "\$2" appearing in section 59-18(b) and inserting in lieu thereof the sum "\$3".

(h) By amending the last sentence of section 59-19 (b) to read as follows:

"A lapsed certificate may be reissued upon payment of the renewal fee and a penalty of the same amount as the required annual registration fee."

SECTION 3. Chapter 61 of the Revised Laws of Hawaii 1955, as amended, relating to dentistry, is hereby further amended in the following respects:

(a) By deleting the sum "\$5" appearing in the third sentence of section 61-7 and inserting in lieu thereof the sum "\$7".

(b) By deleting the sum "\$25" appearing in the second paragraph of section 61-9 and inserting in lieu thereof the sum "\$40".

SECTION 4. Chapter 62 of the Revised Laws of Hawaii 1955, as amended, relating to dental hygienists, is hereby further amended in the following respects:

(a) By deleting the sum "\$15" appearing in the second paragraph of section 62-1 and inserting in lieu thereof the sum "\$20".

(b) By deleting the sum "\$1" appearing in the second and third sentences of the fourth paragraph of section 62-1 and inserting in lieu thereof the sum "\$3".

(c) By deleting the sum "\$15" appearing in the last sentence of the fourth paragraph of section 62-1 and inserting in lieu thereof the sum "\$20".

SECTION 5. The first sentence of the last paragraph of section 68-7 of the Revised Laws of Hawaii 1955, as amended, relating to optometry, is hereby further amended by deleting the sum "\$3" and inserting in lieu thereof the sum "\$5".

SECTION 6. Section 69-8 of the Revised Laws of Hawaii 1955, relating to dispensing opticians, is hereby amended by adding thereto the following sentence:

"The holder of an expired certificate may have the same restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty of "\$10."

SECTION 7. Chapter 70 of the Revised Laws of Hawaii 1955, as amended, relating to osteopathy, is hereby further amended in the following respects:

(a) By deleting the sum "\$25" appearing in section 70-5(a) and inserting in lieu thereof the sum "\$35".

(b) By amending the first sentence of section 70-5 (b) to read as follows:

"The provisions of section 70-2 and any other provision of this chapter to the contrary notwithstanding, there shall be paid to the board of osteopathic examiners by every person licensed to practice as an osteopathic physician or osteopathic physician and surgeon, every year between June 1 and June 30, a renewal fee in the amount of \$5."

(c) By deleting the sum "\$35" appearing in the last paragraph of section 70-9 and inserting in lieu thereof the sum "\$100".

SECTION 8. Chapter 71 of the Revised Laws of Hawaii 1955, as amended, relating to pharmacists and pharmacy, is hereby further amended in the following respects:

(a) By deleting the sum "\$5" appearing in section 71-7 and inserting in lieu thereof the sum "\$8".

(b) By deleting the sum "\$5" appearing in section 71-8(b) and inserting in lieu thereof the sum "\$8".

(c) By deleting the sum "\$10" appearing in the first and second paragraphs of section 71-16 and inserting in lieu thereof the sum "\$12".

(d) By adding the following sentence at the end of the second paragraph of section 71-16:

"The holder of an expired permit may have the same restored within three years of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty of \$12."

SECTION 9. Chapter 73 of the Revised Laws of Hawaii 1955, as amended, relating to veterinarians, is hereby amended in the following respects:

(a) By deleting the sum "\$25" appearing in section 73-8 and inserting in lieu thereof the sum "\$35".

(b) By deleting the sum "\$10" appearing in section 73-9(c) and inserting in lieu thereof the sum "\$15".

SECTION 10. Chapter 164 of the Revised Laws of Hawaii 1955, as amended, relating to public accountancy, is hereby further amended in the following respects:

(a) By adding the following sentences to section 164-13:

"A certificate which has not been renewed on or before January 1 shall expire on January 2. The holder of an expired certificate or registration may have the same restored within three years of the date of expiration, upon due application therefor and payment of the delinquent fees and a penalty of \$10."

(b) By changing the period at the end of the first paragraph of section 164-15 to a semicolon and by adding thereto the following words:

"providing further, that such persons shall first be required to register with the board, specifying the extent of such practice and pay a fee of \$25 for each period of three months or less of such temporary practice. The board shall issue temporary permits for such practice."

SECTION 11. Section 165A-6 of the Revised Laws of Hawaii 1955, relating to private detectives and watchmen, is hereby amended by adding thereto the following sentence:

"The holder of an expired license may have the same restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty of \$25."

SECTION 12. Chapter 166 of the Revised Laws of Hawaii 1955, as amended, relating to professional engineers, architects and surveyors, is hereby further amended in the following respects:

(a) By deleting the sum "\$25" appearing in section 166-3(c) and inserting in lieu thereof the sum "\$50".

(b) By deleting the sum "\$5" appearing in the first paragraph of section 166-9 and inserting in lieu thereof the sum "\$30".

(c) By deleting the sums "\$5" and "\$10" appearing in the last paragraph of section 166-9 and inserting in lieu thereof the sums "\$15" and "\$30", respectively.

SECTION 13. The following sums or so much thereof as may be necessary in order to provide for continuing the services of the programs affected by this Act, are hereby appropriated from the general revenues of the State, not otherwise appropriated, for the fiscal year beginning July 1, 1961 and ending June 30, 1962:

DEPARTMENT OF TREASURY AND REGULATION.....	\$55,102
Board of Barbers .....	\$ 9,565
Board of Beauty Culture .....	13,253
Board of Dental Examiners .....	7,624
Board of Registration for Professional Engineers, Architects and Land Surveyors .....	\$24,660

The appropriations made in this Act shall be from the general revenues of the State; provided, that the special funds of the boards affected are abolished and if not then the sums as indicated above shall be construed as authorization for the expenditure of that amount of money from their respective special funds. The appropriations made above shall be in lieu of any other appropriation to these programs for the fiscal year 1961-1962 enacted during the general session of 1961.

SECTION 14. This Act shall take effect upon its approval provided however the increased fees shall not apply to existing licenses until the appropriate renewal dates.

(Approved July 5, 1961.) S.B. 942.

## ACT 143

A Bill for an Act Amending Chapter 143 of the Revised Laws of Hawaii 1955, as Amended, Relating to Financial Assistance of the Agency.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 143-15 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the first paragraph thereof to read as follows:

**"Sec. 143-15. Financial assistance of agency and office of urban renewal coordinator; redevelopment fund.** The agency may borrow and apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the federal, state or county governments or other public body or from any sources, public or private, for purposes of this part, and may give such security as may be required and may enter into and carry out contracts in connection therewith. In the event that any contract for federal assistance or any federal law or regulations applicable thereto shall require any action, practice, procedure or remedy to be undertaken by the agency in any urban renewal project that is contrary to or conflicts with any state or local law, then such federal requirements or provisions shall govern and prevail over any provision of state or local law to the contrary. The foregoing provision shall be liberally applied and construed as to any case of conflicting federal and local requirements to the end that federal financial assistance for any urban renewal project shall not be hindered, impaired or jeopardized. In fulfilling its duties the agency may expend funds legally loaned, appropriated or granted to it by any agency of the government, funds received as gifts or contributions, and funds received from the sale or use of its properties. All moneys received by any agency shall be paid into the treasury of the county to be held in a redevelopment fund, hereby created, to the credit of such agency and shall be disbursed upon warrants of the county auditor or director of finance, as the case may be, based upon vouchers signed by the chairman or acting chairman of the agency or any subordinate of the agency duly authorized by it to sign such vouchers."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 1029.**

### ACT 144

An Act Amending Chapter 143 of the Revised Laws of Hawaii 1955, as Amended, Relating to the Appointment of Personnel of the Redevelopment Agency.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 143-6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending subparagraph (c) thereof to read as follows:

"(c) To appoint a manager and a deputy manager who shall have such qualifications as the agency deems necessary and who shall hold their respective offices at the pleasure of the agency. The manager shall be exempt from the requirements of chapters 3 and 4 and shall receive such salary as the agency may provide. The deputy manager shall be exempt from the requirements of chapter 3 but shall be subject to the position classification plan. The manager shall have full power to administer the affairs of the agency, subject to the direction and approval of the agency. The manager shall, subject to the approval of the agency, have power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the agency. All such appointments, suspensions or discharges shall be made in conformity with the applicable provisions of chapters 3 and 4."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 5, 1961.) **S.B. 1042.**

## ACT 145

An Act Relating to the Public Utilities Commission and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$50,000, or so much thereof as may be necessary to the public utilities commission of the department of treasury and regulation, for the administrative expenses connected with the enforcement of the motor carriers law. The public utilities commission is hereby authorized to employ such necessary clerical help and technical help as may be approved by the management division of the department of budget and review.

SECTION 2. This Act shall take effect upon approval; provided, that H. B. 34, as amended, or a similar measure is enacted into law.\*

(Approved July 6, 1961.) S.B. 6.

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## ACT 146

An Act Relating to Group Medical and Hospital Care for Public Officials and Employees, Retirees, Pensioners, and Their Dependents, and Making Appropriations Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Add to the Revised Laws of Hawaii 1955, as amended, a new chapter and sections which shall be appropriately numbered and to read as follows:

### HAWAII PUBLIC EMPLOYEES HEALTH FUND

Sec. 1. **Definitions.** As used in this chapter:

- (a) 'board' means the board of trustees as described in section 6;
- (b) 'carrier' means a voluntary association, corporation, partnership or organization engaged in providing, paying for, arranging for or reimbursing the cost of health services under group insurance contracts or medical or hospital services agreements;
- (c) 'contributions' means money payments made to the fund by the State or an employee-beneficiary;
- (d) 'dependent-beneficiary' means the spouse and legal children of an employee beneficiary deemed eligible by the board to receive health services of a health benefits plan;
- (e) 'employee' means an employee or officer of the state or county government including:
  - (1) a regularly employed member of the faculty of the University of Hawaii, including a research worker, an extension agent, or a person engaged in instructional or administrative work of the University;

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\* See Act 121.

(2) a regularly employed administrative officer, principal, vice-principal, teacher, special teacher, cafeteria manager or cafeteria worker of the public schools;

(3) an apprentice or on-the-job trainee whether or not supported by any federal grant;

(4) an elective officer other than a member of the legislature;

(5) a probationary employee;

(6) a per diem employee;

(7) an officer or employee under an authorized leave of absence; or

(8) an employee of the Hawaii National Guard although paid from federal funds.

(9) a retired member of the employees' retirement system, the county pension system or the police, firemen or bandsmen pension systems of the State or county; but excluding:

(1) a designated beneficiary of a retired member of the employees' retirement system, the county pension system or the police, firemen or bandsmen pension system of the State or county;

(2) a person employed temporarily on a fee or contract basis;

(3) a person hired on a part-time, limited-term, or provisional basis;

(4) a member of a board, commission or agency appointed by the governor, or mayor or chairman of the State or county, respectively; and

(5) a member or employee of the legislature;

(f) 'employee-beneficiary' means an employee deemed eligible by the board to receive health services of a health benefits plan;

(g) 'fund' means the trust fund as described in section 2;

(h) 'health benefits plan' means a group insurance contract or medical or hospital service agreement in which a carrier agrees to provide, pay for, arrange for or reimburse the cost of health services as determined by the board;

(i) 'periodic charge' means the periodic payment by the board to a carrier for any health benefits plan; and

(j) 'trustee' means a trustee of the board of trustees as described in section 6.

## TRUST FUND

**Sec. 2. Establishment of the fund.** There is hereby established a health trust fund to be known as the "Hawaii Public Employees Health Fund".

The fund shall consist of contributions, interest, income, dividends, refunds, rate credits and other returns.

The fund shall be under the control of the board and placed within the department of budget and review for administrative purposes. The director of the budget shall have custody of the fund.

**Sec. 3. Purpose of the fund.** The fund shall be used solely for the purpose of providing employee-beneficiaries and dependent-beneficiaries with a health benefits plan, provided that the fund may be used for other expenses necessary to effectuate such purpose.

**Sec. 4. State contributions to the fund.** Effective January 1, 1962 and every month thereafter, the State through the department of budget and review shall pay to the fund a monthly contribution of three dollars (\$3) for each employee-beneficiary and ten dollars (\$10) for each employee-beneficiary with a dependent-beneficiary. No contribution, however, shall be made by the State for any employee who is entitled to receive health benefits under any federal

medical care program for the aged, if such health benefits are equivalent to, or better than, benefits of health benefits plans under this Act.

If both husband and wife are employee-beneficiaries, the total contribution by the State shall be ten dollars (\$10) for both of them.

Such contribution shall not be considered as wages or salary of an employee and no employee shall have any vested right in or be entitled to receive any part of any contribution made to the fund.

**Sec. 5. Contribution by an employee-beneficiary.** Each employee-beneficiary shall make a monthly contribution to the fund amounting to the difference between the monthly charge of the health benefits plan selected by the employee-beneficiary and the State's contribution to the fund.

During the period the health benefits plan selected by an employee-beneficiary is in effect, the employee-beneficiary shall authorize, if allowed under present laws, that his contribution be withheld and transmitted to the fund monthly by the comptroller, county auditor or finance officer from whom he receives his compensation, pension, or retirement pay. If, however, an employee-beneficiary's contribution to the fund is not withheld and transmitted to the fund, the employee-beneficiary shall pay his monthly contribution to the respective comptroller, county auditor or finance officer from whom he normally receives his compensation for transmittal to the fund by the 10th day of each month.

## BOARD OF TRUSTEES

**Sec. 6. Composition of board.** The board shall consist of nine trustees, three of whom shall be representatives from different organizations representing public employees, three from different private business organizations, a member of the clergy, a teacher, and the director of the budget.

**Sec. 7. Appointment and removal of trustees.** Each trustee shall be appointed by the governor, provided that no person who is a medical physician, nor any employee, officer or agent of any hospital, medical association, medical society, carrier, potential carrier, or any insurance company, or association or board of insurance underwriters shall be appointed.

Each trustee shall accept his appointment in writing.

A trustee may be removed by the governor for good cause.

**Sec. 8. Term of a trustee; vacancy.** Except for the director of the budget, the normal term of each trustee is three years. Of the first nine trustees appointed, three shall be appointed for a term of one year, three for two years, two for three years and the director of the budget shall serve during his term of office as director of the budget.

A vacancy on the board shall be filled by appointment of the governor. The person appointed to fill a vacancy shall serve for the remainder of the term of his predecessor.

If by the end of his term a trustee is not reappointed or his successor is not appointed, he shall serve until his successor is appointed.

**Sec. 9. Chairman and secretary-treasurer.** The trustees shall select one of their members to serve as a chairman and one to serve as secretary-treasurer of the Board.

**Sec. 10. Compensation and expenses of a trustee.** Each trustee shall serve without compensation, but he may be reimbursed from the fund for any necessary expense made in behalf of the fund.

**Sec. 11. Legal adviser.** The attorney general shall serve as legal adviser to the board.



## POWERS AND DUTIES OF THE BOARD

Sec. 12. **Administration of the fund.** The board shall administer and carry out the purpose of the fund.

Sec. 13. **Determine health and benefits plan; contract with carriers.** The board shall determine the health services of the health benefits plans, which shall be excepted from the minimum group requirements of chapter 181 of the Revised Laws of Hawaii 1955, as amended. Such health benefits plan shall provide, pay for, arrange for, or reimburse the costs of hospitalization, surgery, medical treatment and care and may include prescribed drugs, medicines, prosthetic appliances, hospital in-patient and out-patient service benefits and medical indemnity benefits.

The board may contract for the following health benefits plans provided that benefits under any respective plan shall be equally available to all employees and their dependents selecting such plan regardless of age:

(a) a statewide indemnity benefit plan under which a carrier agrees to pay certain sums of money not in excess of the actual expenses incurred for health services;

(b) a statewide service benefit plan under which payment is made by a carrier under contracts with physicians, hospitals or other providers of health services, or, under certain conditions, payment is made by a carrier to the employee;

(c) comprehensive group-practice prepayment plans which offer health benefits, in whole or in substantial part on a prepaid and community rated bases, with professional services provided by physicians practicing as a group in a common center or centers. Such a group shall include physicians representing at least three major medical specialties who receive all or a substantial part of their professional income from the prepaid funds.

Sec. 14. **Selection of carrier of indemnity plan.** Before selecting a carrier of an indemnity type health benefits plan the board shall:

(a) prepare specifications of a health benefits plan;

(b) submit specifications for sealed bids by interested carriers;

(c) evaluate bids of respective carriers; and

(d) give prime consideration to the carrier offering the lowest net cost and high quality of services.

Sec. 15. **Determine eligibility of employee or dependent.** The board shall establish and adopt eligibility requirements to determine which employee and dependent may qualify as an employee-beneficiary or dependent-beneficiary, respectively. Only an employee or dependent satisfying such eligibility requirements may qualify as an employee-beneficiary or dependent-beneficiary.

Sec. 16. **Information and enrollment.**

(a) The board shall make available to each employee-beneficiary information which will help each employee-beneficiary exercise an informed choice among the approved health benefits plans. Such information on all plans shall be distributed to each employee at the same time and in the same manner.

(b) The board shall establish conditions under which employees may transfer enrollment from one health benefits plan to another.

Sec. 17. **Other powers.** In addition to the power to administer the fund, the board may:

(a) collect, receive, deposit, withdraw and invest money in behalf of the fund;

(b) appoint an administrator and staff necessary to carry out the provisions

of this Act, subject to the limitations of available appropriations and the provisions of chapters 3, 4 and 5 of the Revised Laws of Hawaii 1955, as amended;

(c) make payments of periodic charges and pay for reasonable expenses incurred to carry out the purposes of the fund; or

(d) require any department, agency or employee of the State and county to furnish information to the board to carry out the purposes of this Act.

**Sec. 18. Other duties.** The board shall:

(a) authorize the director of the budget to make periodic charges and payments from the fund only upon vouchers countersigned by the chairman and secretary-treasurer;

(b) maintain accurate records and accounts of all financial transactions of the fund which shall be audited annually and summarized in an annual report by the state comptroller;

(c) maintain suitable and adequate records to carry out the purpose of the fund; and

(d) procure a fidelity bond of a reasonable amount for the chairman, secretary-treasurer and any other person authorized to handle money of the fund.

### PROCEDURE OF THE BOARD

**Sec. 19. Meetings; notice.** The chairman may call a meeting of the board at any time by giving at least seven days' written notice of the time and place of the meeting to all other trustees.

Any two trustees may call a meeting of the board by giving at least ten days' written notice of the time and place to all other trustees.

A meeting of the board may be called at any time without notice if all trustees agree.

**Sec. 20. Quorum.** Five trustees shall constitute a quorum to transact business.

**Sec. 21. Voting power; majority.** Each trustee shall have one vote.

Any action taken shall be by a simple majority of trustees present at a meeting.

If the vote on any matter is deadlocked, every trustee of the board shall cast a vote.

**Sec. 22. Records and minutes.** The board shall keep records and minutes of all meetings of the board.

**SECTION 2. Administrative appropriation.** There is hereby appropriated out of the general funds of the State the sum of \$88,000, or so much thereof as may be necessary, to the department of budget and review for the initial expenses of establishing, operating and administering the "Hawaii Public Employees' Health Fund" for the period ending June 30, 1962.

**SECTION 3. State contributing appropriation.** There is hereby appropriated out of the general funds of the State the sum of \$943,782, or so much thereof as may be necessary, to the department of budget and review to cover the contributions of the State for the period beginning January 1, 1962 and ending June 30, 1962.

**SECTION 4. Implementation.** Implementation of this Act shall be completed and health benefits plans made available to employee-beneficiaries and dependent-beneficiaries by January 1, 1962. The board shall make a written report to the members of the legislature of the State of Hawaii at least thirty days before the legislature convenes for the 1962 Regular Session, setting forth its progress in implementing this Act.

**SECTION 5. Construction; severability.** This Act shall be liberally construed in order to accomplish the purpose set forth in Section 3. If any part of the Act is declared invalid the remaining parts shall be valid.

**SECTION 6. Effective date.** This Act shall take effect upon its approval.  
(Approved July 6, 1961.) **S.B. 17.**

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**ACT 147**

An Act Relating to Vacations of Public Officers and Employees.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The first paragraph of section 5-30 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 5-30. Vacations of public officers and employees; exceptions.** With the exception of school teachers, principals and cafeteria managers employed in the public schools of the State, the instructional staff of the University of Hawaii, members of the fire departments of the several counties, and provisional employees and contractual employees (meaning persons employed on a contractual basis pursuant to paragraphs (b) and (n) of section 3-20; paragraphs (g) and (i) of section 3-51; and paragraphs (g) and (l) of section 3-61) of the State and the several counties, all officers and employees of the State or of the several counties and all full-time elected and appointive officers and employees of the State and the several counties shall be entitled to and granted a vacation with pay each calendar year calculated at the rate of one and three-quarters working days for each month of service. A month of service shall be deemed to mean a calendar month in which the employee performs not less than nineteen days of actual service. A provisional employee, as such, shall not be entitled to a vacation with pay, but he shall be entitled to earn and accrue vacation allowances during the term of his provisional appointment, and if upon the termination of his provisional appointment he receives a probationary or limited term or permanent appointment in the same position, he shall be credited with the allowances earned and accrued during the provisional appointment, but if he does not become such probationary or regular employee, the vacation allowances shall be automatically forfeited. Vacation allowances shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved July 6, 1961.) **S.B. 254.**

### ACT 148

An Act Relating to the University of Hawaii, and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$50,050, or so much thereof as may be necessary, to the University of Hawaii. Of the appropriation, \$50 shall be expended for the creation and production of an appropriate streamer designed by the department of defense and for the expenses connected in holding the presentation ceremonies in which the State of Hawaii grants recognition to the Reserve Officers Training Corps of the University of Hawaii for its service in the Hawaii Territorial Guard in the defense of the State and of the nation during the period from December 7, 1941 to January 22, 1942. The remaining balance of \$50,000 shall be expended for the expenses connected with the holding of the Tenth Pacific Science Congress within the State of Hawaii.

SECTION 2. This Act shall take effect upon its approval.

(Approved July 6, 1961.) **S.B. 536.**

### ACT 149

An Act Providing for the Issuance of Certificates Conferring the Title of "Calabash Cousin to the People of Hawaii" and Miniature Poi-Pounders to Certain Persons; and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The governor is hereby authorized to print sufficient certificates as he may deem necessary conferring the title of "Calabash Cousin to the People of Hawaii", which certificates shall be appropriately worded, with the proper amount of solemnity and humor, and contain the idea that whomsoever is issued such a certificate is held in great affection and esteem by the people of Hawaii and thus becomes a calabash cousin to the people of Hawaii.

SECTION 2. The governor is hereby further authorized to cause to be made miniature poi-pounders of a size and from material as he may deem appropriate for the purposes of this Act.

SECTION 3. Said certificates, together with said miniature poi-pounders, may be awarded by the governor within his discretion or by the President of the Senate or Speaker of the House upon resolutions duly passed by one or both Houses, to the following persons:

- (a) Persons who contributed to the attainment of statehood for Hawaii; or
- (b) Persons who have devoted and dedicated themselves to the betterment of Hawaii; or
- (c) Persons who have brought honor to Hawaii; or
- (d) Heads of State and other dignitaries who are considered with affection by the people of Hawaii.

SECTION 4. There shall be kept by the public archives of the State a permanent record with the names of all those to whom certificates conferring

the title of "Calabash Cousin to the People of Hawaii" are issued, setting forth their accomplishments in relation to the people of Hawaii.

SECTION 5. There is hereby appropriated from the general revenues of the State, not otherwise appropriated, the sum of \$100.00, or so much thereof as may be necessary, for the purposes of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 6, 1961.) **S.B. 690.**

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## ACT 150

An Act Relating to Minimum Par Value Required Shares of Bank Stock.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 178-19(c) of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(c) The amount of its capital stock and the number of shares into which such capital stock is to be divided, and such shares shall have a par value of not less than \$5 per share;"

SECTION 2. Chapter 178 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section to read as follows:

**"Sec. 178-24.1. Par value of stock.** Shares of stock may be issued at par value of \$5 or more per share. Any bank may at any time increase the par value of its stock, or reduce it, but not below \$5 per share, after having first received the written approval of the treasurer and by the vote of the shareholders owning at least three-fourths of the stock in such bank, at any regular or special shareholders' meeting, which may be called for that purpose. When the increase or decrease of the par value of the capital stock has been authorized at a shareholders' meeting as herein provided, the president, cashier or secretary of the bank shall prepare a certificate in form prescribed by the treasurer containing a copy of the resolution, as passed by the shareholders at such meeting, authorizing the increase or decrease in the par value of such capital stock. Such certificate shall be signed by, and verified by oath of, the president, cashier or secretary of the bank and forthwith transmitted to the treasurer."

SECTION 3. This Act shall take effect upon its approval.

(Approved July 6, 1961.) **S.B. 910.**

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## ACT 151

An Act Relating to Professional Engineers, Architects and Land Surveyors.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Amend section 166-13 of the Revised Laws of Hawaii 1955, as amended, to read as follows:

**"Section 166-13. Structures exempted from provisions of chapter.** The provisions of this chapter shall not apply to work in respect to any privately owned or privately controlled one-storied building, dwelling or structure, the estimated cost of which does not exceed \$20,000, nor to any privately con-

trolled two-storied building, dwelling or structure, the estimated cost of which does not exceed \$15,000; provided, that no structure, dwelling or building in which the principal structural members consist of reinforced concrete or structural steel having riveted, bolted or welded connections shall be exempted from this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 6, 1961.) **S.B. 980.**

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### ACT 152

An Act Amending Chapter 97, Revised Laws of Hawaii 1955, as Amended, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 97-22, Revised Laws of Hawaii, 1955, as amended is hereby further amended by adding the following sentences at the end of the third paragraph to read as follows:

"The director shall from time to time make determinations of such charges in accordance with the foregoing and shall promulgate fee schedules reflecting such determinations. The pecuniary liability of the employer may exceed the amounts set forth in such fee schedule only under conditions prescribed by the director."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 6, 1961.) **S.B. 1056.**

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### ACT 153

A Bill for an Act to Amend Section 5-42 of the Revised Laws of Hawaii 1955 to Provide All Public Officers and Employees with Annual Statements of Their Accumulated Annual Leave and Sick Leave.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 5-42 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new second paragraph to read as follows:

"The head of a department shall be required to provide all officers and employees under his supervision with an annual statement showing their accumulated annual leave and sick leave".

SECTION 2. This Act shall take effect upon its approval.

(Approved July 6, 1961.) **H.B. 1000.**

## ACT 154

A Bill for an Act to Provide for Amendments and Additions to Chapter 170, Revised Laws of Hawaii 1955, as Amended: To Change the Name and Title of the Real Estate License Commission to "Real Estate Commission"; and to Provide for Regulations of Transactions Involving Real Estate Subdivisions.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 170-1 of the Revised Laws of Hawaii 1955 as amended is hereby further amended by deleting paragraph (a) and substituting in its place the following:

"(a) 'Commission' means the Real Estate Commission of the State".

SECTION 2. Section 170-2 of the Revised Laws of Hawaii 1955 is hereby further amended by substituting for the words "Exceptions. The provisions of the chapter shall not apply:" the following words:

**"Exceptions.** The provisions requiring a person to be licensed as a real estate broker or salesman shall not apply:"

SECTION 3. Section 170-3 of the Revised Laws of Hawaii 1955 as amended is hereby further amended by deleting the following words "Section 80 of the Organic Act, a commission to be known as the real estate license commission" from lines 3 through 5 and substituting in place thereof the following words:

"Section 14A-3 of the Revised Laws of Hawaii 1955 as amended, a commission to be known as the Real Estate Commission."

SECTION 4. Section 170-4 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new paragraph to read as follows:

"( ) Regulate transaction involving the sale, lease or transfer of lots or parcels in real estate subdivisions".

SECTION 5. Sections 170-( )-1 through 170 ( )-9 be added to the Revised Laws of Hawaii 1955 as amended to read as follows and to be preceded by a bold faced title:

### **"REGULATIONS OVER TRANSACTIONS INVOLVING REAL ESTATE SUBDIVISIONS.**

**Section 170 ( )-1. Purpose.** The purpose of Sections 170 ( )-1 to 170 ( )-8 is to prevent frauds, misrepresentations, failures to disclose material facts, and other dishonest practices in transactions involving real estate subdivisions by providing regulations over such transactions.

**Section 170 ( )-2. Definitions, as they apply to Sections 170 ( )-1 to 170 ( )-8.**

(a) 'Subdivision' means a real estate subdivision: A plan or project whereby land or lands are divided or proposed to be divided into twenty or more lots for purpose of sale or lease for terms longer than twenty-five years; provided that this subsection shall be construed liberally to include all plans and projects regardless of the form in which they are organized or transacted, so long as their substantial effect or purpose come within the definitions.

(b) 'Developer' means a person who undertakes to develop a real estate subdivision.

(c) 'Person' means co-partnership, joint venture, corporation, company, and firm, as well as individual persons.

(d) 'Commission' means the Real Estate Commission of the State of Hawaii.

**Section 170 ( )-3. Registration of real estate subdivision.** At least ten days prior to the time when any real estate subdivision is to be offered for sale or lease in this State or any other State, Territory or Country or when any plan or project situated in this State is to be offered for sale or lease, the developer shall register it with the commission by furnishing a subdivision map together with the following information and changes that may occur from time to time within ten days after the change occurs:

(a) The name, business and/or residence address of the developer.

(b) The name, business and/or residence address of all real estate brokers selling or leasing any parcels or lots in the real estate subdivision.

(c) The names of all financial institutions and persons with whom any payment made by the purchaser are to be kept.

(d) A brief but comprehensive statement of the land and locality on and in which the real estate subdivision is to be situated.

**Section 170 ( )-4. Meeting subdivision requirements.** The developer shall not enter into a binding contract or agreement for the sale or lease of any parcel or lot in a real estate subdivision until all subdivision map requirements, zoning laws, building laws and all other federal, state, county or municipal laws and rules which are required to be complied with prior to sale or lease have been met.

**Section 170 ( )-5. Prerequisites to collection for a sale or lease.** The developer shall not receive, charge, collect or demand any money or other consideration for a sale or lease of a lot or parcel in a real estate subdivision until one of the following conditions are complied with:

(a) A final approval by the county or city and county agency charged with the final approval of subdivisions together with a bond sufficient to cover the cost of putting in all of the improvements as is required by the agency giving the final approval; or

(b) The completion of all the improvements required by the agency giving the final approval; or

(c) The setting up of an escrow depository or trust account acceptable to the commission where all payments made by the purchasers are to be kept and applied solely toward the progress payments for materials, labor and other costs for the purpose of putting in all improvements required by the agency giving the final approval, provided that the escrow arrangement will be discontinued upon the improvements being completed.

**Section 170 ( )-6. Violations and enforcement.** It is unlawful for any person, in connection with the offer, sale or lease of any lot or parcel in real estate subdivision to, directly or indirectly:

(a) Employ any device, scheme or artifice to defraud;

(b) Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;

(c) Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(d) To issue, circulate or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet or other literature which shall con-



tain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein made in the light of the circumstances under which they are made, not misleading ;

(e) To issue, circulate or publish any advertising matter or make any written representation, unless the name of the person issuing, circulating, publishing, or making the same and the fact that such person is issuing, circulating, publishing or making the same shall be clearly indicated thereon ;

(f) To make any statement or representation, or issue, circulate or publish any advertising matter containing any statement to the effect that the plan or project has been in any way approved or endorsed by the commission ;

(g) To issue, circulate or publish any advertising matter unless a copy thereof shall have been previously filed with the commission ; or

(h) To, in any way, violate the provision of this act. Whoever violates any provision of the chapter shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or by both fine and imprisonment.

**Section 170 ( )-7. Power to investigate and enjoin.** If the commission has received a written complaint or where it appears to the commission that a developer has violated any of the provisions of this act then the commission may examine the books, accounts, records and files used for the real estate subdivision upon reasonable notice and demand and if it finds from satisfactory evidence that any person has violated any of the provisions of this act it may bring an action in the name of the people of the State of Hawaii in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

**Section 170 ( )-8. Voiding of a contract.** Any contract or agreement for the sale or lease of any parcel or lot in a real estate subdivision violating the provisions of sections 170 ( )-4 through 170 ( )-6 shall be void at the option of the purchaser and the purchaser upon the exercise of his option is entitled to all payments he has made to the developer, including interest.

**Section 170 ( )-9. Powers of Political subdivisions.** Nothing contained in this act shall be construed to limit or restrict the powers of any county or city and county in the exercise of its police powers, including the power to adopt and enforce ordinances and regulations relating to the subdivision or consolidation of land.

**SECTION 6.** This Act shall take effect upon approval, provided however it shall not apply to existing real estate subdivisions having commenced sales or leases of its parcels or lots on or before January 1, 1962.

(Approved July 7, 1961.) **H.B. 28.**

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## ACT 155

A Bill for an Act Relating to County Boards of Water Supply.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 145A, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows :

## "CHAPTER 145A COUNTY BOARDS OF WATER SUPPLY

**Sec. 145A-1. Definitions.** As used in this Chapter :

'Board' means the board of water supply of each county ;

'Council' means the board of supervisors or council of each county ;

'County' means a county or city and county of the State ;

'County attorney' means the legal advisor of a county ;

'County auditor' means the auditor or finance officer of a county performing the audit function ;

'County treasurer' means the county official maintaining its treasury ;

'Mayor' means the chairman of the board of supervisors or executive officer of a county.

**Sec. 145A-2. Boards of water supply.** If a county does not have an existing board of water supply, there shall be a board of water supply for each county consisting of seven members of whom five shall be nominated, and by and with the advice and consent of the council, appointed by the mayor, one of whom shall be the state district engineer of the state department of transportation and one of whom shall be the chief engineer of the respective county.

No employee or officer of the State or any of its political subdivisions shall be eligible to serve as a board member, except as otherwise provided herein.

The members of the board shall serve without pay, but shall be reimbursed for their reasonable expenses incurred in the discharge of their duties as members of the board.

The term of office of each appointed member of the board shall be five years from the date of his appointment ; provided, that of the initial members one shall be appointed for a term to expire on January 1, 1963 ; one for a term to expire on January 1, 1964 ; one for a term to expire on January 1, 1965 ; one for a term to expire on January 1, 1966 ; and one for a term to expire on January 1, 1967. Any vacancy occurring on the board shall be filled in accordance with the foregoing provisions for the unexpired portion of the term concerned.

**Sec. 145A-3. Organization and meetings.** The members of the board shall select their own chairman and other officers.

If the chairman is absent, the members of the board shall select an acting chairman.

The board shall hold at least one regular meeting each month.

The board may adopt rules and regulations necessary for the conduct of its business.

A majority of the members of the board shall constitute a quorum for the transaction of business and the affirmative vote of at least four members of the board shall be necessary to validate any action of the board.

**Sec. 145A-4. Staff.** The board shall appoint an engineer duly registered under the provisions of chapter 166 to serve as the administrative officer of the board. He shall be known as the manager and chief engineer of the board and shall be subject to the provisions of chapter 4. The manager-engineer shall appoint a deputy-manager-engineer who shall be an engineer duly registered under the provisions of chapter 166 and who shall be subject to the provisions of chapters 3 and 4."

The manager and chief engineer shall have powers and duties prescribed by the board.

The manager and chief engineer may appoint, suspend or discharge other subordinate employees as may be necessary for the proper conduct of the business of the board in conformity with chapters 3 and 4, provided that all present employees of the waterworks department of a county, and all provisional, probationary, temporary and contractual employees of such waterworks department shall be transferred to the board under their present respective status and under the provisions of chapters 3 and 4.

The board may require a bond in such amount as it deems proper from the manager and chief engineer or deputy or from any employee. The premiums of such bond or bonds shall be paid by the board.

**Sec. 145A-5. Powers and duties of board.** The board shall manage, control and operate the waterworks of the county and all property thereof, for the purpose of supplying water to the public in the county, and shall collect, receive, expend and account for all sums of money derived from the operation thereof and all other monies provided for the use or benefit of such waterworks and all property used for or held in connection therewith.

**Sec. 145A-6. Legal department.** The county attorney shall be the legal advisor of the board and shall prosecute and defend, as the board may require, any and all actions and proceedings involving matters under its jurisdiction. He may, with the prior approval of the board, compromise, settle or dismiss any litigation or proceedings which may be pending for, or on behalf of or against the board relative to any matter or property under its jurisdiction.

**Sec. 145A-7. Outstanding obligations.** All outstanding obligations in connection with the operation of the waterworks shall be paid by the board out of waterworks funds.

**Sec. 145A-8. Purchase and sale of waterworks property; contracts.** The board may contract for work, and purchase supplies, materials or equipment, when the cost of the same can be met from the revenues or reserves of the waterworks, or from the proceeds of bonds authorized for the waterworks. All contracts shall be executed in the name of the board and shall be signed by the chairman or acting chairman of the board.

The board may sell or otherwise dispose of any buildings, materials, supplies or equipment, under its control, when no longer used or useful for its purpose; provided, that such buildings, materials, supplies or equipment shall first be offered at its depreciated or market value to the council. All documents of transfer of such buildings and personal property shall be executed in the name of the board and shall be signed by the chairman or acting chairman thereof. All proceeds of any such sale shall be deposited with the county treasurer and be by him placed to the credit of the board.

**Sec. 145A-9. Construction, additions, extensions, increases, betterments and improvements.** The board shall locate and determine the character and type of all construction and additions, extensions, increases, betterments and improvements to the waterworks, and shall determine the policy for construction or the making of additions, extensions, increases, betterments and improvements out of any public funds under its jurisdiction.

**Sec. 145A-10. Accounts, revenues and expenditures.** The board shall maintain proper accounts in such manner as to show the true and complete financial status and the results of management and operation.

The accounts and financial status of the board shall be examined annually by the county auditor who shall report thereon to the board. The board may, whenever necessary in connection with the issuance of any bonds, employ a certified public accountant to make an audit of the accounts and financial status of the board.

**Sec. 145A-11. Reserve fund.** The board may provide for the accumulation of a fund for the purpose of financing major replacements, or extensions and additions, the average estimated annual increment to which, for a period of ten years, shall not exceed fifteen per cent of the gross revenue of the board in any fiscal year.

**Sec. 145A-12. Revenue bond sales.** The county treasurer shall, when so directed by the board, sell such bonds as may be authorized for the acquisition, construction, replacement, extension or completion of the waterworks; provided, that such sale shall otherwise be conducted in accordance with the procedure specified by the law for the sale of such bonds. The proceeds from such sales shall be kept by the county treasurer in a separate fund to be used only for the purposes for which such bonds were sold.

**Sec. 145A-13. Provisions for payment of bonds, etc.** Whenever there are outstanding any bonds of the county representing monies heretofore or hereafter expended upon the waterworks system, the funds in the county treasury to the credit of the board shall be drawn upon by the county treasurer to the extent necessary from time to time to provide for payment of such bonds and the interest thereon according to the tenor and terms thereof, the monies so drawn to be placed to the credit of the appropriate sinking fund and used for such purposes.

**Sec. 145A-14. Operating expenses, reserves and appropriations.** All receipts of the board other than from the sale of bonds shall be deposited daily in a bank by the board and the sums so deposited shall be accounted for and be paid into the county treasury at the end of each month and maintained in a special fund. The board may make appropriations and allowances from the fund for the following purposes, viz.: (a) for the payment of the operating and maintenance expenses of the waterworks; (b) for repairs, replacements, additions and extensions; (c) for accident reserve, pension charges and compensation insurance; (d) for payment of interest and sinking funds on all bonds issued for the acquisition or construction of the waterworks and extensions thereto and for the reserve fund.

**Sec. 145A-15. Disbursement of fund.** The county treasurer shall disburse all monies of the board only upon warrants issued by the county auditor on vouchers signed by the chairman or acting chairman of the board.

**Sec. 145A-16. Rates.** The board shall have the power to fix and adjust rates and charges for the furnishing of water and for water service; provided no rates or charges shall be fixed or adjusted prior to the holding by such board of a public hearing, notice of which shall have been published in a newspaper of general circulation (one publication) not less than four days before the date of such public hearing and such notice shall set forth the time, place of the hearing and the proposed rates and charges to be considered thereat. The board shall have the power to collect and by appropriate means, including the discontinuance of service to delinquent consumers, or commencement of civil action in the name of the board, enforce the collection of such rates and charges; and to adjust and settle all complaints, claims

and accounts of consumers or the public. All water furnished to the county or any department thereof or to the State or any department thereof shall be charged to the respective departments and shall be payable to the board by the respective departments at such rates and times established by the board, and, upon the failure of such departments to make payment when payment is due, then the auditor of the county and the comptroller of the department of accounting and general services of the State of Hawaii shall pay from the account of such department or departments all delinquencies as certified to by the chairman of the board.

**Sec. 145A-17. Acquisition of lands.** The board may, in the name of the county, acquire and take by purchase, lease or otherwise, all property situated within the limits of the county that it may determine necessary for the construction, maintenance, extension or operation of the waterworks system.

**Sec. 145A-18. Agreements for joint use of utilities.** The board may enter into such arrangements and agreements as it deems proper for the joint use with any other person owning the same, or having jurisdiction of the same, of poles, conduits, towers, stations, aqueducts and reservoirs for the operation of any of the properties under its jurisdiction.

**Sec. 145A-19. Pensions.** All officers and employees of the board shall be entitled to the benefits of the provisions of Part II of chapter 6. The employer's contribution to the retirement fund, as provided thereunder, shall be paid from the funds under the control of the board.

**Sec. 145A-20. Deposit of money in banks.** All monies deposited in the office of the county treasurer belonging to the board shall be deposited in such manner and upon such provisions and requirements, as provided by chapter 133, the county treasurer and the chairman of the board shall have the same rights, powers and duties as devolve upon the State, its treasurer and the governor, respectively, with respect to state funds so deposited. All interest received by the county treasurer upon monies belonging to the board shall be credited to the board.

**Sec. 145A-21. Name and service of process; claims against the board.** The board created herein shall be known as the board of water supply of the county in which it is created, and may sue and be sued under such name. Service of process in all matters affecting the board, or any property under its jurisdiction, may be made by service upon any member of the board or on its manager. Any action commenced or prosecuted for the recovery of damages for any injury to any person or property by reason of the negligence of the board or of any of its agents, servants or employees, shall be commenced and prosecuted against the board. No action shall be maintained for the recovery of any such damage, unless a written statement verified by the oath of a claimant, setting forth the nature and items of the claim, and the time and place where the alleged injury may have occurred or where the damage was sustained, has been filed with the board within six months after the date of the sustaining of the injury or damage; otherwise there shall be no recovery on the claim.

**Sec. 145A-22. Advances.** The council may advance to the board such sums as shall be necessary for the operating expenses of the board during its first year of operations, which sum shall be reimbursed to each respective county within 5 years after the date of this Act. The council shall provide

necessary office and base yard space and facilities for the use and occupancy of the board."

**SECTION 2. Existing Contracts.** All existing contracts affecting the affairs of the water department of a county wherein a board of water supply is created pursuant to this Act and which are in effect as of the effective date of this Act shall also bind and become contracts of such board of water supply, and all monies heretofore appropriated for such contracts or other improvement projects affecting the affairs of the water department of such county and all monies heretofore appropriated for the use of the water department of such county shall be credited to such board.

**SECTION 3. Applicability.** This Act shall not apply to any county which has an existing board created pursuant to law.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved July 7, 1961.) **H.B. 1166.**

## ACT 156

An Act Providing Payment of Freight Costs of Cars for Certain Disabled Veterans and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** There is hereby appropriated out of the general revenues of the State, not otherwise appropriated, the sum of \$25,000, or so much thereof as may be necessary, for the purpose of paying for the freight costs, from the factory to Hawaii, of cars provided by the federal government for disabled veterans under Chapter 39, Title 38, United States Code.

**SECTION 2.** Only such disabled veterans qualifying under the aforementioned federal law, who have been residents of the State of Hawaii for five or more years prior to the effective date of this Act, shall be entitled to receive the benefits as stated under the provisions of this Act.

**SECTION 3.** The monies hereby appropriated shall be paid as reimbursement to disabled veterans for personal payment of freight costs of importing such cars or to persons engaged in the business of importing such cars.

**SECTION 4.** The monies hereby appropriated shall be expended by the department of social services.

**SECTION 5.** This Act shall take effect upon its approval and shall be in effect for a period of two years thereafter.

(Approved July 7, 1961.) **S.B. 570.**

## ACT 157

A Bill for an Act Providing Additional Unemployment Compensation Benefits in Times of Disaster and Economic Distress.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** There is hereby added to the Revised Laws of Hawaii 1955 a new chapter numbered 93B, entitled:

## "CHAPTER 93B

### ADDITIONAL UNEMPLOYMENT COMPENSATION BENEFITS LAW.

**Sec. 93B-1. Purpose.** The purpose of this Act is to provide assistance to the unemployed whose unemployment is caused by the occurrence of natural or man-made disasters or occasioned by excessive unemployment by providing additional unemployment compensation benefits for those who are otherwise eligible for payments.

**Sec. 93B-2. Additional Unemployment Compensation Benefits, Payable When.** The additional unemployment benefits provided for in this chapter shall be authorized only upon the following conditions:

(a) When a disaster, either natural or man-made, has struck the State, or any county thereof causing damage to a substantial number of persons and families so as to require assistance from the State, and an unemployment problem has been created thereby, or

(b) when the extent of unemployment in any county or counties as measured by the labor force estimates of the department of labor and industrial relations, State of Hawaii, is six (6) per cent or higher of the civilian labor force, provided that for the purposes of this subsection only, individuals who are subject to disqualification for benefits under Section 93-29(d) of the R.L.H. 1955, as amended, shall not be deemed unemployed.

Upon the occurrence of either of the conditions described in (a) or (b) of this section, the governor may provide additional unemployment benefits in the appropriate county or counties as provided for this chapter. Such additional benefits shall be operative upon the issuance by the governor of a proclamation specifically invoking the provisions of this chapter and identifying the county or counties which have been affected and in which provision for additional unemployment benefits shall be made operative.

**Sec. 93B-3. Definitions, generally.** As used in this chapter, unless the context clearly requires otherwise:

(a) 'Director' means the director of labor and industrial relations of the State.

(b) 'Fund' means the additional unemployment compensation fund established by this Act.

(c) 'Unemployment'. An individual shall be deemed "unemployed" in any week during which he performs no services and with respect to which no wages are receivable by him, or in any week of less than full time work if the wages receivable by him with respect to such week are less than his weekly benefit amount payable under this chapter.

(d) 'Additional unemployment benefits' means the unemployment compensation benefits payable under this chapter.

(e) 'Normal benefits' means the unemployment compensation benefits payable pursuant to chapters 93 and 93A, Revised Laws of Hawaii 1955, as amended.

(f) 'Claimant' means an individual:

(1) who has an unexpired benefit year and has exhausted his normal benefits; or

(2) whose benefit year expired, or whose normal benefits were exhausted, within a period of 26 consecutive weeks immediately preceding the week in which the proclamation provided for in section 93B-2 became effective; or

(3) who was employed during the week in which the governor's proclamation pursuant to section 93B-2 became effective, but who became unemployed and whose total earned wages are insufficient to entitle him to normal benefits ; or

(4) whose unemployment was proximately caused by the disaster identified by the governor in the proclamation provided for in section 93B-2 and was self-employed during the week in which the disaster occurred.

(g) 'Wages' means all remuneration for services from whatever source, including commissions and bonuses, and remuneration from self employment, and the cash value of all remuneration in any medium other than cash, but not including tips or gratuities paid directly to an individual by a customer of his employer and not accounted for by the individual to his employer. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the director. For the purposes of this chapter "wages" does not include the amount of payment or remuneration set forth in section 93-11, Revised Laws of Hawaii 1955, amended.

(h) 'Week' means any period of seven consecutive days as the director may by regulation prescribe.

(i) 'Benefit year' refers to "benefit year" as that term is defined in section 93-1(c), Revised Laws of Hawaii 1955, as amended.

**Sec. 93B-4. Payment of benefits.** Additional unemployment benefits are payable from the fund to unemployed claimants who are eligible under this chapter.

**Sec. 93B-5. Weekly benefit amount.** A claimant's weekly benefit amount under this chapter shall be the same as his weekly normal benefit amount payable during his current benefit year if he has an unexpired benefit year, or his most recent benefit year less that part of wages (if any) payable to him with respect to such week which is in excess of \$2; provided that if the claimant was self-employed during the week in which the disaster identified by the governor in the proclamation provided for in section 93B-2 occurred, or he was employed during such week but his total earned wages are insufficient to entitle him to normal benefits, then his weekly benefit amount shall be \$35 less that part of wages (if any) payable to him with respect to such week which is in excess of \$2.

**Sec. 93B-6. Maximum benefits payable.** A claimant's maximum potential additional unemployment benefits shall be 13 times his weekly benefit amount, and shall be determined in the week in which he first claims for additional unemployment benefits and shall remain unchanged for the period specified in Sec. 93B-17.

**Sec. 93B-7. Requirements for eligibility.** An unemployed claimant is eligible to receive additional unemployment benefits with respect to any week only if the director finds that :

(a) He has made a claim for additional unemployment benefits with respect to such week in accordance with the regulations as the director may prescribe with respect to claims for normal benefits.

(b) He meets the eligibility requirements of subsections (b) and (c) of section 93-28, or chapter 93A, Revised Laws of Hawaii 1955, as amended.

(c) He is not subject to disqualification and is not under disqualification for normal benefits under any provision of section 93-29, Revised Laws of Hawaii 1955, as amended.



(d) He is not entitled to receive unemployment compensation benefits under any State or Federal unemployment compensation laws for the week in which he claims for additional unemployment benefits.

**Sec. 93B-8. Disqualification for additional unemployment benefits.** A claimant shall be disqualified for extended unemployment benefits:

(a) Voluntary separation. For any week in which he has left his work voluntarily without good cause and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances in each case.

(b) Discharge of misconduct. For the week in which he has been discharged for misconduct connected with his work and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined in each case in accordance with the seriousness of the misconduct.

(c) Failure to apply for work, etc. If he has failed, without good cause, either to apply for available, suitable work when so directed by the director or any duly authorized representative of the director, or to accept suitable work when offered him. Such disqualification shall continue for the week in which such failure occurred and for not more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances of each case.

(1) In determining whether or not any work is suitable for a claimant there shall be considered among other factors and in addition to those enumerated in paragraph (2) of this subsection, the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, and the distance of available work from his residence and prospects for obtaining local work.

(2) No work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible claimant for refusing to accept new work under any of the following conditions:

(i) If the position offered is vacant due directly to a strike, lockout or other labor dispute;

(ii) If the wages, hours or other conditions of the work offered are substantially less favorable to the claimant than those prevailing for similar work in the locality;

(iii) If as a condition of being employed the claimant would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment or other premises at which he is or was last employed; provided that this subsection shall not apply if it is shown that:

(1) He is not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class or workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of

the same premises, each such department shall, for the purpose of this subsection, be deemed to be a separate factory, establishment or other premises.

(e) **Fraud.** If the director finds that he has made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain any additional unemployment benefits under this chapter, in which case he shall be disqualified for the week in which the director makes such determination and for the remainder of the weeks for which he would otherwise be eligible.

(f) **Pregnancy.** Within four months prior to the anticipated date of such claimant's giving birth to a child and two months after childbirth.

**Sec. 93B-9. Claim.** A claimant who desires to claim additional unemployment benefits shall file a claim pursuant to section 93-31, Revised Laws of Hawaii 1955.

**Sec. 93B-10. Effective date of claim; waiting period not required.** The effective date of a claim shall be the first day of the week in which a claim is first filed. No claimant shall be required to serve a waiting period.

**Sec. 93B-11. Determination, redetermination, notice of determination, appeal.** The procedure with respect to the determinations and redeterminations of claims for additional unemployment benefits and with respect to appeals from such determination and redeterminations and with respect to judicial review of decisions on such appeals shall be governed by the provisions of sections 93-32 to 93-40, Revised Laws of Hawaii 1955, as amended.

**Sec. 93B-12. Recovery of additional unemployment benefits; penalties.**

(a) Any person who makes, or causes to be made by another, a false statement or representation of material fact knowing it to be false or who knowingly fails, or causes another to fail, to disclose a material fact, and as a result thereof has received any amount as benefits under this chapter to which he was not entitled shall be liable for such amount. Notice of redetermination in such cases shall specify that the person is liable to repay to the fund the amount of extended unemployment benefits paid to him by reason of such nondisclosure or misrepresentation, and the week or weeks for which such benefits were paid.

(b) If, under this section a claimant is liable to repay any amount to the director, such amount shall be collectible without interest by civil action in the name of the director.

(c) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact to obtain or increase any benefit or other payment under this chapter shall be fined not less than \$20 nor more than \$200, or imprisoned not more than thirty days, or both.

**Sec. 93B-13. Additional unemployment compensation fund.** There is hereby created a fund to be known as the additional unemployment compensation fund. The director of the budget of the State shall be custodian of the fund, and all disbursements therefrom shall be paid by him upon orders signed by the director.

Moneys credited to the account of the fund may be requisitioned and used for the payment of expenses incurred for the administration of this chapter.

**Sec. 93B-14. Administration: other sections applicable.** For the purposes of this chapter, the provisions of sections 93-90, 93-91, 93-94, 93-95, and 93-97 to 93-102, Revised Laws of Hawaii 1955, as amended, shall apply, mutatis mutandis, to the administration of this chapter.

**Sec. 93B-15. Rights, etc., preserved: other sections applicable.** For the purposes of this chapter, the provisions of sections 93-150 to 93-152, Revised Laws of Hawaii 1955, as amended, shall apply *mutatis mutandis*.

**Sec. 93B-16. Non-liability of State.** Extended unemployment benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter, subject to amendment or repeal thereof, and to the extent that moneys are available therefor to the credit of the additional unemployment compensation fund.

**Sec. 93B-17. Period of Benefits Payments; Issuance of Further Proclamations.** Where the additional benefits provided by this chapter are made payable by the governor's proclamation after the occurrence of a disaster, such benefits shall be payable only for a period of one year after the effective date of said proclamation.

Where the additional benefits provided by this chapter are made payable by the governor's proclamation because of this existence of conditions described in 93B-2 (b), such benefits shall be payable while said conditions exist but not for more than a period of one year following the effective date of the proclamation.

Nothing contained herein shall prevent the governor from issuing further proclamations invoking the provisions of this chapter in the event other disasters occur or the conditions described in 93B-2(b) exist one year after the first proclamation.

**SECTION 2. Appropriation.** There is hereby appropriated out of the general funds of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, to be credited to the additional compensation fund, for the purposes of this chapter. Section 19 or any other section of Act 11, Special Session Laws of Hawaii 1960 to the contrary notwithstanding, there is hereby further appropriated to the additional compensation fund established by this Act, the balances that may exist in the disaster unemployment compensation fund, established by said Act 11, after the payment of all benefits and expenses due under said Act.

**SECTION 3. Effective date.** This Act shall take effect upon its approval.  
(Approved July 7, 1961.) **H.B. 20.**

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## ACT 158

An Act Accepting the Land-Grant College Aid and Designating its Beneficiary and Custodian.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The State of Hawaii hereby accepts and assents to the terms and provisions of paragraph 14(e) of the Act of Congress, approved July 12, 1960, entitled: "TO AMEND CERTAIN LAWS OF THE UNITED STATES IN LIGHT OF THE ADMISSION OF THE STATE OF HAWAII INTO THE UNION, AND FOR OTHER PURPOSES" (Public Law 86-624), and hereby consents to receive the benefits thereof in the manner and form and for the purpose in said act intended and provided.

**SECTION 2.** Until otherwise provided by law, the University of Hawaii established by Article IX, Section 4 of the Constitution of the State of Ha-

waii, shall be the beneficiary of the income from the funds in said act mentioned, and shall use and disburse the income from the funds only for the purposes and in the manner provided in said act. In addition, the income shall be subject to the provisions of Chapter 35, Revised Laws of Hawaii 1955, as amended.

SECTION 3. The director of the budget is hereby authorized to receive and shall be the custodian of the funds. He shall invest the funds in the manner provided by said act and pay to the University of Hawaii the income earned by the funds.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 38.**

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## ACT 159

An Act Providing for the Refund of Instructional Fees Collected from the Students of State Technical Evening Schools for the School Year 1957-1958 and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Refund of instructional fees.** The superintendent of public instruction (hereinafter referred to as the "superintendent") shall refund those instructional fees collected from students enrolled in the state technical schools' part-time evening and apprenticeship program during the school year 1957-1958.

SECTION 2. **Claims; notice; time of filing; proof; rejection.** The superintendent shall give notice by advertisement in a newspaper of statewide circulation prior to August 1, 1961, once in each of four consecutive weeks, calling on all persons who may have claims against the department of education for such instructional fees to present the same, with satisfactory proof thereof, to the superintendent at his office in Honolulu within six months from the date of first publication of the notice. The superintendent shall mail a similar notice to all parties whose names appear as claimants upon the books of the department of education for such fees at their last place of abode within the State or at such other address outside the State where a claimant is known to reside. If the superintendent doubts the validity of any claim, he may reject the same and serve notice of the rejection upon the claimant, either by mail or personally, and an affidavit of the service of the notice, which shall be prima facie evidence thereof, shall be filed in his office. An action upon a claim so rejected must be brought within two months after service, and notice thereof must be served upon the superintendent. All rights, in the moneys made available for refund under this Act, of any claimant who fails to appear and present his claim within the period of six months from the date of the first publication of notice shall be forever barred. The superintendent shall after expiration of the period to file a claim or an action on a rejected claim as hereinabove set forth transfer all unclaimed moneys to the director of the budget and such moneys shall be considered general revenues of the State.

SECTION 3. **Appropriation.** There is hereby appropriated out of the general revenues of the State the sum of \$16,500 or so much thereof as may

be necessary to be disbursed during the period July 1, 1961 to June 30, 1962 for the purpose specified in this Act upon vouchers signed by the superintendent of public instruction and approved by the board of education.

**SECTION 4. Effective date.** This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 88.**

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## ACT 160

An Act Amending Section 42-50, Revised Laws of Hawaii 1955, Relating to Private Trade, Vocational or Technical Schools.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 42-50, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 42-50. Private trade, vocational or technical school, defined.** A private trade, vocational or technical school, as contemplated by this part shall be any plan or method used by any person or persons, firm or any other organization or corporation for giving instruction in any form or manner in any trade, occupation or vocation for a consideration, reward or promise of whatever nature, except as follows:

(a) Schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged.

(b) Courses of instruction given by any fraternal society, benevolent order or professional organization to its members which courses are not operated for profit.

(c) Flying schools qualified under the Civil Aeronautics Administration.

(d) Classes conducted for less than five students at one and the same time.

(e) Classes or courses of instruction which are conducted for twenty or less class sessions during any twelve month period.

(f) Avocational, hobby, recreation, or health class or course.

(g) Courses of instruction on religious subjects given under the auspices of a religious organization.

The department may at its discretion regulate the above excepted schools and classes."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 110.**

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## ACT 161

An Act Amending Section 128-28 of the Revised Laws of Hawaii 1955, as Amended, Relating to Assessment Lists.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Section 128-28 of the Revised Laws of Hawaii 1955, as amended, is hereby amended in the following respects:

(a) By deleting from the second sentence the words "show a brief description of the property assessed" and by inserting in lieu thereof the words "identify the property assessed by its tax key".

(b) By amending the last sentence to read: "The original of the assessment lists shall be retained by the assessor and a duplicate of the information contained in the list shall be retained by the director."

(c) By adding after the last sentence of the section the following: "The lists may be made up of a separate sheet or card for each property."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 158.**

## ACT 162

An Act Amending Section 128-27 and Section 128-31 of the Revised Laws of Hawaii 1955, as Amended, Relating to Assessment Notices and Tax Roll.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 128-27 of the Revised Laws of Hawaii 1955, as amended, is amended in the following respects: by deleting the words "describing briefly the property involved and" which begin on the ninth line of the section and inserting in lieu thereof the words "identifying the property involved by the tax key."

SECTION 2. Section 128-31 of the Revised Laws of Hawaii 1955, as amended, is amended in the following respects: (a) by deleting the words "valuation, exemptions allowed, taxable value," which appear in the fourth and fifth lines of the section; (b) by deleting the second sentence in its entirety.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 159.**

## ACT 163

An Act Relating to Permits to Carry Firearms.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 157-9, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Section 157-9. Permits to carry; penalty.** In exceptional case, when the applicant shows good reason to fear injury to his person or property, the respective chiefs of police may grant a license to a citizen of the United States or a duly accredited official representative of a foreign nation, of the age of twenty years or more, to carry concealed on his person within the county within which such license is granted, a pistol or revolver and ammunition therefor; or where the urgency of the need has been sufficiently indicated to the respective chiefs of police, they may grant to an applicant of good moral character who is a citizen of the United States of the age of twenty years or more, who is engaged in the protection of life and property and not prohibited under the provisions of section 157-7 from the ownership or possession of a firearm, a license to carry unconcealed on his person within the county within which such license is granted, a pistol or revolver. Unless renewed, such license shall automatically become void at the expiration of one year from date of issue. No such license shall be issued unless it appears that the applicant is

a suitable person to be so licensed, and in no event to a person who is prohibited under the provisions of section 157-7 from the ownership or possession of a firearm, or a person adjudged insane or appearing to be mentally deranged. No person shall carry concealed or unconcealed on his person a pistol or revolver without being licensed so to do under the provisions of this section or in compliance with the provisions of section 157-6, as amended.

For each such license there shall be charged a fee of \$10, which shall be covered into the treasury of the county in which such license is granted.

Any person violating this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 199.**

## ACT 164

An Act Relating to Hours of Work and Overtime Work of Public Officers and Employees.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 5-72 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 5-72. Hours of work of officers and employees; compensation for overtime; and premium pay.** (a) The provisions of this section shall apply to every officer or employee of the State or any of its political subdivisions, or of any department, board, commission or other agency of the State or any of its political subdivisions, where pay is established by chapter 4, Revised Laws of Hawaii 1955, as amended, except:

- (1) Elected officials;
- (2) The head of any department, first deputy or first assistant;
- (3) Officers and employees assigned to salary ranges 29, 30, and 31.

(b) Except as otherwise provided in this section, the normal work week of all government personnel shall be forty hours with not more than eight hours of work in any day. The normal work week shall be applicable to all such personnel, irrespective of whether their work is performed during the hours specified in section 5-70.

(c) The limitation of eight hours of work a day or forty hours a week may be waived for the convenience of employees by an agreement between a majority of a group of officers or employees and the head of that agency in which they are employed. Such an agreement shall be cancelled or amended whenever a majority of the group wish to cancel or amend it.

(d) The hours of work of the fire-fighting members of the fire departments of the political subdivisions of the State shall be governed by the following provisions:

(1) The maximum number of hours of work shall be two hundred and eighty-eight hours of actual service for twenty-eight days;

(2) Not more than one hundred forty-four hours of work shall be required in any two-week period;

(3) The number of hours of each day's work shall be fixed from time to time by the head of the department.

(e) Employees in salary ranges 1 through 16 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half hours for each hour of overtime worked.

Employees in salary ranges 17 through 28 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half times the minimum step of salary range 17.

(f) If compensation for overtime worked is due an officer or employee at the time of severance, it shall be paid in cash.

(g) Any work performed in a spread of more than ten hours per day, exclusive of meal periods, shall be considered as overtime work and the employee shall be paid for such work at the rate of time and one-half.

(h) Whenever an employee is required to report to work because of an emergency outside of his regular scheduled working hours, he shall be paid for a minimum of two hours of work, calculated from the time he leaves his home until he returns from work.

(i) The provisions of this section in regard to payment in cash shall be applicable when compensatory time off for the overtime cannot be taken by the employee within thirty days after the overtime work.

(j) An employee who, by agreement with the head of his department, performs standby or emergency service in excess of his normal hours of work in exchange for accommodations provided him for the convenience of the government, shall not be entitled to overtime credit for such service except for emergency service rendered on his scheduled day off."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 233.**

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## ACT 165

An Act Relating to 'Telecommunications Service and the Lawful Charge Therefor, and Providing Penalties in Connection Therewith.

*Be it enacted by the Legislature of the State of Hawaii:*

SECTION 1. Any person who wilfully obtains or attempts to obtain, or aids and abets another to obtain or to attempt to obtain, any telecommunications service,

(a) by charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the legitimate holder thereof, or

(b) by charging such service to a nonexistent false, fictitious, or counterfeit telephone number or credit card number or to a suspended, terminated, expired, cancelled, or revoked telephone number or credit card number, shall be imprisoned for not more than one year or fined not more than \$1,000, or both.

SECTION 2. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 368.**



**ACT 166**

An Act Relating to the Water and Land Development Program of the Department of Land and Natural Resources and Amending Chapters 86, 87 and 87A of the Revised Laws of Hawaii, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Title 10 of the Revised Laws of Hawaii is amended to read as follows:

**"TITLE 10: DEPARTMENT OF LAND AND NATURAL RESOURCES".**

SECTION 2. The title of Chapter 86 of the Revised Laws of Hawaii is amended to read as follows:

**"CHAPTER 86. WATER AND LAND DEVELOPMENT".**

SECTION 3. Chapter 86 of the Revised Laws of Hawaii 1955, as amended is hereby amended to read as follows:

**"Section 86-1. Findings and declaration of necessity.** It is hereby found that it is important to the welfare of the people of Hawaii that the overall economy of the State, including but not limited to agricultural production, be developed as fully as possible. It is further found that water presently tapped for consumption is inadequate for the fullest development of the economy of the State. It is therefore hereby declared that additional water and water facilities are necessary for the development of the overall economy of the State.

It is the intent of the legislature that no project shall be organized in the city and county of Honolulu or other counties without the board first consulting the board of water supply of the city and county of Honolulu or the water board or department of each county.

**Section 86-2. Definitions.** The following terms, whenever used and referred to in this chapter, shall have the following respective meaning, unless a different meaning clearly appears in the context:

'Board' means the board of land and natural resources.

'Project' or 'irrigation project' means an area, contiguous or non-contiguous, established under the provisions of this chapter within which water is supplied to the State or the Hawaiian homes commission for the development and opening of lands for farming or to land occupiers engaged in farming.

'Water facility' includes all real and personal property, together with all improvements to the same, acquired or constructed pursuant to a plan or undertaking to provide water within a project for irrigation or for economic development, under the terms of this chapter.

'Farming' means agricultural pursuits, including the care and production of livestock and poultry, engaged in by a land occupier owning or having a leasehold of land, within any existing or proposed irrigation project.

'Water tolls' means any charges established by the board for irrigation water supplied by it to the State, the Hawaiian homes commission, and land occupiers.

'Acreage assessments' means any levy imposed pursuant to the provisions of this chapter on the agricultural and pasture land within an irrigation project and any amount charged to the State or the Hawaiian homes commission for the purpose of acquiring, establishing or maintaining irrigation facilities for an irrigation project.

'Land occupier' means the owner or in the case of leased land, the lessee of lands lying within an irrigation project organized or to be organized under the provisions of this chapter.

'Leased land', 'leasehold' and similar expressions wherever used in this chapter shall be deemed to include land subject to and held under lease or other tenancy, purchase or homestead agreement; 'lease' wherever used herein means such lease, tenancy, purchase or homestead agreement; 'lessor' wherever used herein includes the lessor, landlord, seller or state as grantor of the homestead and 'lessee' wherever used herein includes the lessee, tenant, purchaser or homesteader under such lease or other agreement, as the case may be.

'Agricultural land' means that portion of the land of a land occupier as lies within an existing or proposed irrigation project and is of such location and character as may be profitably employed in the growing of irrigated crops; and 'pasture land' means that portion of the land of a land occupier as lies within an existing or proposed irrigation project and is of such location and character as may be suitable with the use of water for irrigated pasture and may be profitably employed in the production of livestock or poultry.

'Government' includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

**Section 86-3. Manager-chief engineer.** The board shall appoint a registered professional engineer who shall act as manager-chief engineer of the water and land development program and have such qualifications as the board may deem necessary. The appointment and removal of the manager-chief engineer shall be in accordance with chapters 3 and 4 and he shall perform the duties as set forth by the board.

**Section 86-4. Interested members of the board or employees.** No member of the board or employees of the board shall acquire any interest, direct or indirect, in any water facility or project or in any property, included or planned to be included in any facility or project, nor shall he have any interest, direct or indirect, in any contract or proposed contract, for materials or services to be furnished or used in connection with any water facility or project. If any member of the board or employee of the board owns or controls an interest, direct or indirect, in any property included or planned to be included in any water facility or project, he shall immediately disclose the same in writing to the board and such disclosure shall be entered upon the minutes of the board. Such member of the board or employee shall be immediately disqualified from taking any part in the action of the board relative to such water facility or project. Failure to so disclose such interest shall constitute misconduct in office.

**Section 86-5. Powers.** In addition to all the powers granted to the board in chapter 99 for the purpose of carrying out all of its functions and duties, the board shall have the following powers for the purposes of this chapter:

To acquire by eminent domain, water and water sources either above or underground, water shed, reservoir sites, rights of way over lands and property for paths, trails, roads and landing sites, ditches, tunnels, flumes, reservoirs and pipe lines necessary or proper for the construction and maintenance of water facilities for conveying, distributing and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating and maintaining irrigation water facilities, any of which purposes shall be held to be for a public use and purpose; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the board, including,

without prejudice to the generality of the foregoing, contracts and other instruments for the purchase or sale of water and for the purchase or lease of water facilities for irrigation or for the overall economic development of the area, including but not limited to the production of agricultural products and the land on which such facilities are situated, and for securing to the owners and occupiers of land already using water in a project a priority right to so much water from those of their sources and facilities which are taken over for the project as is required for the purposes or needs of such land, whether agricultural or non-agricultural in nature, as such purposes or needs exist at the inception of the project or are then contemplated in the immediate future; to make and from time to time amend and repeal by-laws, rules and regulations, not inconsistent with this chapter, which upon compliance with sections 7-29 to 7-32 shall have the force and effect of law, to carry into effect the powers and purposes of the board; to make surveys for the purpose of determining the engineering and economic feasibility of each project; to conduct or have prepared comprehensive studies of the crops, livestock and poultry which may be profitably grown or produced within each project and the probable market for such crops, livestock and poultry; to conduct feasibility studies of the economic potential of the area; to determine the probable costs and value of providing water for irrigation or for economic development in any proposed project; to investigate and make surveys of water resources, including the possibility and feasibility of inducing rain by artificial or other means; to define and re-define the boundaries of projects and to consolidate or separate projects, existing or proposed pursuant to this chapter, provided, that in the event the redefinition of the boundaries of or the consolidation or separation previously effected increases the total amount required to be derived from acreage assessments upon lands within the existing project or projects by more than five per cent or will require an increase in the tolls charged for water supplied to such lands or will reduce the amount of water normally available for distribution to such lands, then such redefinition, consolidation or separation may be accomplished only after notice has been published and a public hearing held as required for the formation of a project upon the initiative of the board. At such hearing, right to protest and the procedure relative to protest shall be the same as specified in section 86-16 concerning the formation of projects, and the proposed redefinition of boundaries, consolidation or separation of projects shall not be accomplished if protests, such as would be sufficient to prevent such action if it were the formation of a project, are filed by owners and lessees of land within the existing project or projects affected thereby.

The board is empowered, upon petition of land occupiers as provided by section 86-12 herein, or upon petition of the Hawaiian homes commission or upon its own initiative, to prepare detailed plans for the acquisition or construction of facilities for irrigation or for economic development which in its opinion are economically feasible; to prepare estimates of the probable cost of each; and to prepare estimates of the water tolls and acreage assessments required for the cost of operation and the amortization of the investment of each project, so that the project shall be self-supporting.

The board shall also have power to establish the total amount of acreage assessments to be levied annually within each project; to set and from time to time revise tolls which it shall charge for the water provided by its facilities, subject to the rate policies established hereunder, to establish priorities between the several lands included in a project according to the use to which said lands are put or other reasonable basis for classification, to govern the

furnishing of water in the event of a shortage of supply and to correlate water tolls with such priorities ; to charge and collect such tolls, fees and other charges established in connection herewith ; to sell, exchange, transfer, assign or pledge any property, real or personal, or any interest therein to any person, firm, corporation or government, except as prohibited by the laws of the State ; to hold, clear and improve property ; to borrow money for any of the purposes hereunder ; to insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable ; to include in any construction contract let in connection with a project stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project.

The board shall also have the power to enter into any repayment or other contracts with the United States for the construction, operation and maintenance of any projects as may be required or provided for by the federal reclamation laws, or acts amendatory thereof or supplementary thereto, or other federal laws, and further to borrow money or accept grants or assistance from the federal government, or any department, bureau or agency thereof with respect to the engineering, construction, operation and financing of any project hereunder. The board shall make every effort to obtain all federal aid possible for the purposes of this chapter.

In making surveys, studies and investigations, the planning and designing and in constructing projects and facilities for irrigation and for economic development the board shall also have power to include therein surveys, studies and investigations of, plans and designs for and construction of facilities for flood control and the utilization of water for the production of hydroelectric power, where the same may be practicable in conjunction with the formation and operation of an irrigation project or projects.

**Section 86-6. Issuance of revenue bonds.** The board shall have the power to issue revenue bonds, as provided by part III of Chapter 137 to finance in whole or in part, the cost of construction, acquisition or maintenance of any facility or project hereunder, and, in connection therewith, to pledge for the punctual payment of such bonds, and interest thereon, any and all revenues derived from the project or projects for the construction, acquisition or maintenance of which the bonds were issued, and the revenue of other or all projects, in an amount sufficient to pay the principal and interest of such bonds as they become due, and to create and maintain reasonable reserves or sinking funds therefor. Funds of the board, not otherwise required, may be advanced to pay necessary expenses incurred in making preparation for the initial issuance of bonds under this chapter, and to take any other action necessary or proper in connection therewith. Any project authorized by this chapter shall be designated an 'undertaking' within the meaning of part III of Chapter 137 and shall be the public undertaking, the revenues of which are hereby charged with the payment of the principal and interest of such bonds.

**Section 86-7. Investment of funds.** The director of the budget may authorize the investment of any funds held in reserves, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control.

**Section 86-8. Security for funds deposited by board.** The board may by resolution provide that all moneys deposited by it shall be secured: (a) by

any securities by which funds deposited by the director of the budget of the State may be legally secured, as provided in section 133-3; or (b) by an undertaking with such sureties as shall be approved by the board faithfully to keep and pay over upon the order of the board any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for such deposits.

**Section 86-9. Eligibility of revenue bonds for investment.** It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees' retirement system of the State, or any instrumentality of the State, or any insurance company or building and loan association, or any savings bank or trust company, or any bank or other financial institution operating under the laws of the State, or for any executor, administrator, guardian, trustee or other fiduciary or any educational, charitable or eleemosynary institution to invest their funds or moneys in their custody in the revenue bonds issued hereunder; provided, that the foregoing shall not be deemed to obviate or otherwise affect any statutory or other requirement with respect to the use of judgment and care in investing any such funds. No holder of any revenue bonds issued hereunder, however, shall have the right to compel any exercise of the taxing power of the State to pay such bonds or interest thereon.

**Section 86-10. Rate policy; sale of excess water.** The board shall have the power to fix and adjust rates and charges for the furnishing of irrigation or domestic water and for water service so that the revenues derived therefrom shall be sufficient to cover the cost of operation, maintenance and replacement and may make such charges as may be necessary to cover the capital cost of such system or other costs incurred in connection with such system.

Nothing in this chapter shall be construed to prevent the board from selling water to persons other than land occupiers and other consumers within a water project in the event and to the extent that water in excess of the needs of such land occupiers and other consumers may from time to time be available.

**Section 86-11. Lands included within irrigation projects.** Except as otherwise expressly permitted in this chapter, lands to be included within an irrigation project shall be only those used or to be used in farming. The number of acres of agricultural and pasture land of each land occupier within the project shall be determined by the board and shall not be increased or decreased, nor shall any such land included within a project thereafter be withdrawn, after final determination to construct the project except in the manner and with the limitations specified in this chapter for redefining the boundaries of a project. The project shall include only such lands as can be adequately irrigated by the quantity of water and facilities to be provided under normal conditions of supply. No land which at the time of formation of the project is irrigated, or is devoted to the cultivation for commercial purposes of sugar, pineapples, coffee, bananas, citrus, papayas or macadamia nuts, or other horticultural crops, whether or not such land so devoted is irrigated, or is being devoted to an industrial or townsite or other use of greater economic value than agriculture shall be included in such project if the owner of such land (or the land occupier thereof if other than the owner, in the event that such land occupier is legally chargeable with the acreage assessments) shall object in writing to such inclusion. The foregoing provisions of this paragraph shall be applicable to all irrigation projects.

Notwithstanding the limitation expressed in the foregoing paragraph, lands of the State used by the University of Hawaii for experimental farms may be included in irrigation projects, provided the board of regents undertakes the payment of water tolls and acreage assessments and for the purposes of such inclusion the University of Hawaii shall be deemed a land occupier within the meaning of this chapter. Lands within such farms shall be assessed accordingly as the same are of the character of agricultural or pasture lands, as defined in this chapter, although they are used for experimental purposes. Such assessments shall not, however, become a lien upon said lands.

**Section 86-12. Petition of land occupiers for formation of water project.**

Land occupiers, including the Hawaiian homes commission, comprising at least sixty per cent of the acreage of lands lying within an area proposed to be organized into a water project may file a petition with the board requesting that such project be organized. Where any of the lands of such petitioners in the proposed area are leased lands, it shall be necessary for the lessor and lessee to join in such petition. The petition shall contain a general description and the acreage of the area proposed to be organized into a water project and shall state the acreage owned or leased by each of the petitioners within that area. Before the board shall commence any water project involving homesteaded lands of the Hawaiian homes commission, it shall require the commission to assure the payment of any acreage assessment thereon, in pursuance of section 208(5) of the Hawaiian homes commission Act, 1920.

**Section 86-13. Petition of Hawaiian homes commission for formation of irrigation project, community pastures.**

The Hawaiian homes commission may petition the board to organize irrigation projects for any of the lands designated as 'available lands' in the Hawaiian homes commission Act, 1920, whether or not such lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to said lands, no notice need be published nor public hearing held as in section 86-15 required. Project water may be supplied to community pastures established by the Hawaiian homes commission within any project even though such pastures exceed one hundred acres in area. Before the board shall commence any irrigation project involving community pastures it shall require agreement from Hawaiian homes commission that tolls for water supplied to and acreage assessments upon such pastures shall be paid by the commission. Before the board shall commence any irrigation project involving available lands which the Hawaiian homes commission desires to develop and open for small scale farming it shall require agreement from the Hawaiian homes commission that in the event the development and opening of said lands does not enable the making of acreage assessments sufficient to repay the costs of construction of the project that the same will be paid by the commission. The payments referred to in this section may be made by the Hawaiian homes commission from any of its funds designated or created by congress for that purpose.

**Section 86-14. State lands, formation of irrigation project.** The board may organize irrigation projects for lands under its control, whether or not such lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to

said lands, no notice need be published nor public hearing held as in section 86-15 required. The costs of construction of the project, shall be paid by the board, in the event and to the extent that the development and opening of said lands does not enable the making of acreage assessments sufficient to repay such construction costs, from any funds in the state treasury derived from the lease or license of public lands or waters, which funds are hereby made available for such purposes.

**Section 86-15. Consideration of petitions; notice and hearing.** When more than one petition is filed covering portions of the same territory, the board may consolidate the petitions. Having received such petitions, on the basis of such evidence as may be submitted to it by the petitioners and on the findings of investigations or surveys made by or for it, or by other governmental agencies, the board shall establish such irrigation projects as it deems necessary to carry out the purposes of this chapter. Before making a final determination to establish a project or projects, the board shall hold a hearing, notice of which shall be duly advertised in the same manner and form, as nearly as may be, as in the following section provided.

**Section 86-16. Formation of irrigation project on initiative of board; notice and hearing; protests.** The board may organize irrigation projects upon its own initiative. In such event, it shall fix a date for public hearing upon the proposed project, which date shall not be less than sixty days after the first publication of notice thereof in a newspaper of general circulation in the county in which the project is proposed. Such notice shall be published once in each of four successive weeks, giving notice of the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per cent of the acreage of agricultural and pasture lands proposed to be organized into an irrigation project shall at the hearing or prior thereto file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve months from the date of closing the public hearing, unless each and every owner protesting shall withdraw his protest; provided, that any lessee of any agricultural or pasture lands included within the proposed project, who, by the express terms of his lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of such owner to protest by filing at the hearing or prior thereto written protest against the proposed project, such written protest to be accompanied by a certified copy of the lease; provided, further, that any lessor may, at any time before the closing of the public hearing, make void the protest of his lessee on consideration of the filing with the board a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further provided that a project may be instituted without further advertisement for a smaller acreage within the advertised acreage in the event the board shall determine such smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per cent of such smaller acreage shall not be filed.

**Section 86-17. Approval of legislature, appropriations.** Funds for acquisition or construction of irrigation facilities for each project, established by the board under the provisions of sections 86-12, 86-13, 86-14, 86-16 may be requested from the legislature, as an appropriation to be repaid without interest to the general funds of the State by the board from water tolls, acreage assess-

ments and other receipts of the board within such period as may be specified in the act making the appropriation.

**Section 86-18. Administration of irrigation project; acreage assessments; liens.** All irrigation projects established pursuant to the provisions of this chapter shall be administered by the board. In making the final determination to establish a project, the board shall determine the proportion of acreage assessments to be borne by the agricultural land and pasture land within the project. The proportion to be borne by pasture land may, in the discretion of the board, be less but not more than the proportion to be borne by agriculture land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The proportions to be borne by agricultural and pasture lands shall be certified to the director of taxation and shall not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project and then only in the manner and within the limitations specified in conjunction therewith. The board shall determine and certify to the director of taxation on or before March 31 of each year (a) the amount of acreage assessments necessary in that calendar year for acquisitions, construction and maintenance of irrigation facilities for each project, and (b) the acreage of agricultural and pasture land of each land occupier within said project.

Upon such certification the director of taxation or his properly authorized deputies or other assistants, shall determine the acreage assessment to be levied against the property of each land occupier in the following manner: (a) by determining the amount of acreage assessments to be borne by the agricultural land and the pasture land within the project according to the proportion previously certified to him by the board; (b) by dividing the amount of acreage assessment to be borne by the agricultural land by a number of acres of agricultural land within the project and multiplying the quotient by the number of acres of agricultural land of said occupier within the project; and (c) by dividing the amount of acreage assessment to be borne by the pasture land by the number of acres of pasture land within the project and multiplying the quotient by the number of acres of pasture land of said land occupier within the project. Such acreage assessments shall be in addition to any real property taxes, and shall be collected by the director of taxation in the same manner as said taxes. Except in the case of public lands and lands designated as 'available lands' under the Hawaiian homes commission Act, 1920, acreage assessments shall be a paramount lien against the entire tract, including improvements, of the land occupier of which the assessed agricultural or pasture land or both of the land occupier included within the project forms a part. Said lien may be foreclosed in the same manner as liens for real property taxes and in accordance with the provisions of sections 128-38 to 128-44. In case of the foreclosure of any homestead land pursuant to such sections the foreclosure sale shall be subject to the provisions of Chapter 99. In the case of public lands and lands designated as 'available lands' under the Hawaiian homes commission Act, 1920, acreage assessments shall not constitute a lien on the property involved and notice of any delinquent acreage assessment shall be served upon the board of land and natural resources or the Hawaiian homes commission, as the case may be, for payment.

Acreage assessments shall be deemed revenues within the meaning of part III of Chapter 137 and shall be used for the payment of the principal and interest of any revenue bonds issued hereunder.



Water tolls fixed by the board for each project under the provisions of this chapter shall be collected by the board under such reasonable rules and procedures as it may establish and may modify from time to time.

All water tolls, acreage assessments and receipts from properties sold by way of foreclosure for failure to pay acreage assessments shall be realizations of the board.

**Section 86-19. Furnishing domestic water.** In conjunction with any irrigation project which it has established, and subject to pertinent provisions of law governing such supply, the board is authorized to establish a system for and to supply water for domestic purposes to residents within and in close proximity to the irrigation project. Such system shall be established only if (a) the board determines that it would be advisable and in the public interest to provide such domestic supply; (b) its construction and operation by the board has been consented to by the board of water supply of the county in which the project is situated, or if situated in the city and county of Honolulu by the board of water supply or the suburban water system of the city and county as appropriate, and by a majority of the land occupiers within the irrigation project; and (c) if under normal conditions of water availability, the operation of said system will not prejudice or interfere with the supply of irrigation water to the land occupiers within the project. The board is also authorized, subject to the limitations previously set forth in this section, to take over, improve and operate any existing system for the supply of domestic water if requested so to do by the owners and operators of such system.

**Section 86-20. Repayment of certain state advances.** Whenever under legislative authorization, past, present or future, general obligation bonds of the State are issued or the proceeds of general obligation bonds of the State are used, by way of advancement, for the establishment and construction of any specific project under the jurisdiction of the board in its water program, the board may repay the same to the director of the budget, upon the expiration of ten years from the time of initial irrigation service to the project, which ten-year term shall be the development period, as repayment on account of the advancement. Such payments shall be made over the period of the next succeeding forty years after the termination of the development period, the total of which payments shall be sufficient to reimburse the State for redemption of the bonds together with interest paid by the State in respect of the same.

The foregoing method of repayment of advances shall be effective for each phase of any multiphase project, the amortization period for the advancement commencing ten years from the time that facilities to provide irrigation service for each new project phase are put into operation.

In the event that changing use of the land in a project substantially increases revenues, or other circumstances make it reasonably possible or desirable for the board to accelerate the amortization of advances, it shall be permitted to do so.

**Section 86-21. Water development revolving fund.** There shall be a special fund to be known as the 'water development revolving fund.' Moneys in the revolving fund shall be expended for administrative costs, engineering surveys, economic studies, plans, maps and for other water projects or purposes of the board. In the event any moneys are expended therefrom for engineering surveys, economic studies, plans and other expenses directly attributable to any water project, or for the establishment of any water project, the

amount of such expenditures shall be reimbursed to the revolving fund from any funds received by the board for and on account of such project."

SECTION 4. Chapter 87, entitled "Molokai Irrigation and Water Utilization Project", of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Section 87-1. Administration of chapter.** The board of land and natural resources in its water and land development program is charged with the administration of this chapter.

**Section 87-2. Powers.** In addition to all the powers conferred upon the board of land and natural resources by Chapters 99 and 86, the board shall have the powers hereinafter set forth. The board shall have the power to make preliminary surveys and engineering studies, and to construct an irrigation and water utilization project, designed to serve and supply the owners and occupants of lands on the island of Molokai, and to manage, control, operate and maintain such project in accordance with the provisions of this chapter. It shall also have the power to contract with domestic water users including the county of Maui. It shall further have the power to contract with the government of the United States or any bureau or agency thereof with regard to the construction or the financing of such system.

The board shall have power to fix, charge and collect reasonable water rates for service from such water system to defray the cost of operation, maintenance and replacements of such system. It shall also have the right to acquire by eminent domain, water and water sources either above or underground, water sheds, reservoir sites, rights of way over lands and property for paths, trails, roads and landing sites, ditches, tunnels, flumes, reservoirs and pipe lines necessary or proper for the construction and maintenance of a system for conveying, distributing and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating and maintaining an irrigation and water utilization system. Such right of eminent domain shall be exercised in the manner and under the procedure provided by law.

**Section 87-3. Funds.** The board shall pay all receipts and revenues received by it from the operation of such irrigation and water utilization system into a special fund in the state treasury. Such fund shall be used and expended for the following purposes:

- (a) Payment of the operating and maintenance costs of the system;
- (b) Repairs, replacements, additions and extensions;
- (c) Reimbursement to the State the amount of any principal or interest due upon any bond issued under this chapter.

**Section 87-4. Preference.** To the extent that the same may be necessary from time to time for the satisfaction of their water needs, domestic and agricultural, the Hawaiian homes commission and lessees of the Hawaiian homes commission shall at all times, upon actual need therefor being shown to the board, have a prior right to two-thirds of the water developed for such irrigation and water utilization project by the tunnel development extending to Waikolu valley and ground water developed west of Waikolu valley, which is planned by the board as the first stage of such project.

**Section 87-5. Molokai irrigation system account.** There shall be a special account in the 'water and land development revolving fund' of the board of land and natural resources to be known as 'Molokai irrigation system account.' The director of the budget may make temporary use of any portion

or all of the money not immediately needed for construction and operation of the system for the purpose of paying warrants drawn on the treasury for current indebtedness of the State, or for deposit in the state sinking fund for the repayment of bonds, or for investment in state bonds; provided that sufficient of the sums so taken, deposited or invested shall be redeposited to the credit of the Molokai irrigation system account prior to the time when any engagement for the payment from the account falls due.

The moneys from the account shall be expended upon warrants drawn by the comptroller for the purposes of this Act.

In connection with the construction or operation or maintenance of such project the board may utilize such contributions of labor, materials and property, including money, as may be allocated or otherwise made available by any person or instrumentality whatsoever, if in the judgment of the board the acceptance thereof will not limit the scope of construction or operation of the project provided for by this chapter.

Money received and accepted under this section shall be available for expenditure for the purposes for which contributed in like manner as if the sums had been specifically appropriated for such purposes.

Any provisions of this chapter or any other state law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of Congress to be expended in connection with or for the construction of the project authorized by this chapter, the board may enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, and do and perform such other acts and things as may be necessary, or be required by such acts of congress or any regulations or requirements of the federal government, as a condition to securing such federal funds for such project.

Any other provision of law to the contrary notwithstanding, any bonds issued under this chapter may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of congress authorizing such loans or advances, by the United States or any such board, agency or instrumentality to the State for the construction, in whole or in part, of the project authorized under this chapter or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of such bonds if sold.

**Section 87-6. Development period.** The board shall fix a development period for the project authorized by this chapter of not to exceed ten years from and including the first calendar year in which water is first delivered for the lands in the project. During the development period the board shall annually fix the tolls to be charged for water use and for acreage service charges, so that the cost of operation and maintenance of the project during the development period plus any amounts reimbursable to the State under section 87-3(c) will be returned over the full development period.

**Section 87-7. Construction, when.** No actual construction of the physical features of the project shall be undertaken unless (a) lands or interests in lands deemed by the board to be necessary for the construction and operation of the major features of the project works have been secured, or negotiations therefor have been initiated and it is indicated that the lands or

interests in lands can be secured, at prices satisfactory to the board; and (b) the board has found (1) that water rights adequate for the purposes of the project have been acquired with titles and at prices satisfactory to the board or have been initiated and can be perfected in conformity with the law of the State and in a manner satisfactory to the board, and (2) that such water rights can be utilized for the purposes of the projects in a manner satisfactory to the board.

**Section 87-8. Regulations.** The board may perform any and all acts and make such rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of this chapter, which upon compliance with Chapter 7 shall have the force and effect of law."

SECTION 3. Chapter 87A, entitled "Water Resources", of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"Section 87A-1. Definitions.** The following terms whenever used and referred to in this chapter has the following respective meanings unless a different meaning clearly appears in the context:

(a) 'Board' means the board of land and natural resources.

(b) 'Water resources' means all sources of water supply in the State which are or may be used or can be made to be usable to supply the domestic, military, agricultural and industrial water requirement within the State, and without limiting the generality of the foregoing includes surface water, ground water and brackish, salt and other water which is or may be made usable to supply any of such water requirements.

**Section 87A-2. Findings and declaration of necessity.** It is hereby found and determined that the general welfare and health of the people of the State and the sound economic development of the State require thorough investigation and study of all of the water resources of the State, a current and continuing inventory of all water resources of the State, including full information concerning their nature, location, quantity, quality and existing and potential utilization, and the development and revision from time to time as necessary of a master plan for the development, conservation and use of all of the water resources of the State.

**Section 87A-3. Compilation of existing information.** The board shall collect and correlate all information heretofore recorded concerning the water resources of the State. The several boards of water supply and county water department, the comptroller, board of agriculture and conservation, director of planning and all other agencies and departments of the State and several county governments having any such information shall upon request of the board make their records of the same available to the board for such period as the board shall reasonably require. The board shall also request the co-operation of and the disclosure of any such information by the Hawaiian homes commission and the United States geological survey.

**Section 87A-4. Surveys and inventory of water resources.** The board shall initiate and conduct such surveys of the water resources and requirements in the State as may be required to enable the formulation and revision from time to time as necessary of a master plan for the development, conservation and most beneficial use of all such water resources. As an aid thereto, the board shall also make an inventory of all of such water resources and compile sufficient information concerning the nature, location, quantity, quality, existing and potential utilization and other characteristics of the

same as will enable a proper evaluation to be made of such water resources for the purposes of planning their development, conservation and use.

**Section 87A-5. Study of processes for utilization of currently unusable water resources.** The board shall review available information concerning the use of evaporation, distillation, ion exchange and other process for, and shall conduct such research, studies and tests as may be necessary to ascertain and keep current upon the possibilities for and feasibility of the conversion of non-potable water to domestic use and the utilization for agricultural and industrial purposes of brackish, salt or other water not suitable in its natural state for such use.

**Section 87A-6. Cooperation with United States geological survey.** The board in its water and land development program shall have the power to investigate and determine the water resources of the State by the gauging of streams and rainfall and other means, in cooperation with the United States geological survey or otherwise in furtherance thereof take over and exercise the functions of the State in the conduct of the hydrographic survey of the State. The board may also accept grants and matching funds from and enter into contracts and agreements with the United States geological survey and any other department, bureau or agency of the United States, State and municipal agencies and private sources to carry out the purposes of this chapter.

**Section 87A-7. Publication of information.** The board shall keep all information assembled by it concerning the water resources of the State on file in its offices and available for public inspection, and shall publish so much of the same in compilation or other convenient form from time to time as may be necessary or desirable for the use and guidance of the major users or suppliers of water and the public.

**Section 87A-8. Qualified personnel.** Qualified geologists, hydrographers and other scientific and technical personnel necessary to carry out the purposes of this chapter may be engaged by the board without regard to the requirements of chapters 3 and 4 and section 5-1.

**Section 87A-9. Planning water systems.** The board shall assist and cooperate with the several boards of water supply and water departments, the Hawaiian homes commission, and industry in the State in investigating and planning the development and use of water for domestic and industrial water supply systems when requested so to do by any of them and upon arrangements being made concerning payment by them for the services of the board in such connection. In addition to the authority vested in the board by section 86-19, the board is authorized to design or construct domestic or industrial water systems.

**Section 87A-10. Functions of boards of water supply and water departments unimpaired.** Nothing in this chapter shall be deemed to restrict or modify the powers and duties of the several boards of water supply and water departments, or to prevent any of them from continuing to carry out such investigations, studies and planning as may be necessary or convenient to their proper and efficient management and operation and the accomplishment of the purposes of the legislation governing them."

SECTION 6. This Act shall take effect upon its approval.

(Approved July 8, 1961.) S.B. 430.

**ACT 167**

An Act Relating to District Courts, Repealing Sections 216-16 to 216-19 and Amending Chapters 237 and 238, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Sections 216-16, 216-17, 216-18 and 216-19, Revised Laws of Hawaii 1955, are hereby repealed.

SECTION 2. Section 237-1(b), Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the second sentence thereof to read as follows:

"In any action brought by a creditor against a debtor, the creditor may, after judgment rendered in his favor, request the court to summon any garnishee to appear personally, upon a day appointed in the summons for hearing the cause as against such garnishee, and make full disclosure; or in any action brought in the district court by a creditor against a debtor, the creditor may, ten days after judgment rendered in his favor, file a certified copy of the judgment and his affidavit as to the amount due and unpaid on account of the judgment with the employer of the judgment debtor and the employer shall thereupon either file a disclosure within one week or shall withhold from the wages of the judgment debtor the amounts as provided herein and pay the same to the judgment creditor."

SECTION 3. Section 237-1, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new subparagraph as follows:

"(f) No employer shall be liable to anyone for deductions and payments to judgment creditors from wages of judgment debtor employees, as herein provided, when he in good faith believes, or has reason to believe, that service of the certified copy of the judgment and affidavit of the judgment creditor as provided in (b) herein affects the same."

SECTION 4. Section 238-6, Revised Laws of Hawaii 1955, is hereby further amended by adding a new paragraph thereto to read as follows:

"In any action brought in the district court by a creditor against a debtor, the creditor may, ten days after judgment rendered in his favor, in lieu of requesting the issuance of a garnishee summons file a certified copy of the judgment and his affidavit as to the amount due and unpaid on account of the judgment with the comptroller of the State or of the political or municipal subdivision of the State, or other officers through whom the salary, stipend or wages of such judgment debtor is paid, and upon such filing such comptroller or other officer shall withhold from the wages of the judgment debtor the amounts provided in section 237(1)\* subject to payment in good faith as provided in section 237-1(f) and pay the same to the judgment creditor."

SECTION 5. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 609.**

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\* So in original. Should probably read 237-1(a).

## ACT 168

An Act Relating to Transfer of Prisoners Affected with Hansen's Disease and Amending Section 83-20, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to provide for a simplified method of transferring prisoners needing specialized care due to affliction with Hansen's disease.

SECTION 2. Section 83-20 of the Revised Laws of Hawaii 1955, as amended, is hereby deleted in its entirety, and the following substituted therefor:

**"Section 83-20. Transfer of prisoners affected with Hansen's disease.** Upon receipt of a certificate of the department of health that the prisoner has been declared a Hansen's disease sufferer in the manner provided for in section 50-10, and upon written recommendation of the director of health that the prisoner be removed to any hospital, settlement or place for care and treatment of persons affected with Hansen's disease as designated by the director of health for such specialized care and treatment, the director of social services may direct any official having custody of any prisoner convicted of a felony and incarcerated in a state correctional facility to cause such prisoner to be removed to any hospital, settlement or place for care and treatment of persons affected with Hansen's disease as designated by the director of health for such specialized care and treatment, there to be kept until discharged under the provisions of Chapter 50 or until the maximum sentence (with deduction for good time and commutation of sentence) has been served. Any such prisoner who may be discharged before the maximum term of imprisonment shall be returned to the state correctional facility from which he was removed. Any such person who shall have served his maximum sentence before he is discharged under the provisions of Chapter 50 shall remain in the custody of the director of health until lawfully discharged or removed by his direction or permission. Supervision, care and treatment of said prisoner transferred to any hospital, settlement or place for the care and treatment of persons affected with Hansen's disease shall be governed by rules, policies and procedures of the department of health."

SECTION 3. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 936.**

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## ACT 169

An Act Relating to an Appropriation to Provide Funds for Matching with Federal Funds for Development and Promulgation of Kona Coffee Standards and Investigation of Need for Market News Service Covering Coffee.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the State, not otherwise appropriated, the sum of \$5,000 or so much thereof as may be necessary to the department of agriculture and conservation to match an equal amount of federal funds as may be made available to be used

for the purpose of developing and promulgating grades and standards for Kona coffee and for investigating the need for a market news service covering Kona coffee.

SECTION 2. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **S.B. 1078.**

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## ACT 170

A Bill for an Act to Amend Sections 38-20 and 38-22 of the Revised Laws of Hawaii 1955, as Amended, Relating to Authorization and Conditions of Sabbatical Leaves of Absence.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 38-22 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 38-22.** A teacher on sabbatical leave shall devote one half of his total leave to professional educational course work or research approved by the department of education. The department shall promulgate standards and criteria of professional educational course work or research. Before granting a sabbatical leave to a teacher, the department and said teacher shall enter into a contract which shall provide for the following: (1) that the teacher agrees to return to serve in the department for a period of not less than two years within one year after termination of said teacher's sabbatical leave; (2) that upon failure of said teacher to comply with the above subsection (1), said teacher agrees to refund to the department all moneys received while on sabbatical leave; (3) that upon failure of said teacher to comply with the above subsection (2), said teacher agrees to pay for all costs incurred by the department in enforcing subsection (2); (4) that upon failure to comply with the above subsection (1), said teacher's Hawaii teaching certificate shall be cancelled by the department; (5) and any other provisions deemed necessary by the department to be included in the contract."

SECTION 2. Section 38-20 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the second sentence thereof to read as follows:

"In granting such leave, teachers with the longest period of service shall be given first consideration provided that qualified applicants who plan to devote a greater portion of their total leave toward professional educational course work or research shall be given preference over those planning a lesser period of study."

SECTION 3. The department of public instruction may, at its discretion, grant sabbatical leaves for the school year 1961-62 in accordance with the provisions of law in force immediately prior to the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **H.B. 180.**



ACT 171

A Bill for an Act Authorizing the Board of Harbor Commissioners to use Its Special Fund for the Construction of a Pier, Catwalks, and Water, Power, Lighting, Toilet and Shower Facilities at Kewalo Basin, Honolulu, City and County of Honolulu, State of Hawaii.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Notwithstanding the limitations contained in section 112-20 of the Revised Laws of Hawaii 1955, the Board of Harbor Commissioners or its successor shall expend out of its special fund \$100,000 or so much thereof as may be necessary to construct a pier, catwalks, and water, power, lighting, toilet and shower facilities at Kewalo Basin, Honolulu, City and County of Honolulu, State of Hawaii.

SECTION 2. This Act shall take effect upon its approval.

(Approved July 8, 1961.) **H.B. 916.**

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ACT 172

An Act Increasing the Number of State Scholarships and Amending Section 44-15 of the Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 44-15 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 44-15. Number and allocation of scholarships.** No more than two hundred thirty-six holders of state scholarships shall be attending the university at any one time. Two hundred sixteen of these scholarships shall be distributed among the several senatorial districts; the remaining twenty shall be available to students of any senatorial district and shall be awarded at the discretion of the university. Each scholarship shall be granted for the period of one academic year, and shall be renewed each year for all recipients who maintain a satisfactory standard of scholarship and deportment. No student shall receive state scholarship grants for a period longer than four academic years. The maximum number of scholarships among the several senatorial districts at any one time shall be as follows:

First senatorial district .....	28
Second senatorial district .....	28
Third senatorial district .....	40
Fourth senatorial district .....	40
Fifth senatorial district .....	40
Sixth senatorial district .....	40

**Sec. 44-15.1. Reallocation of scholarships.** The maximum number of scholarships among the several senatorial districts as specified in section 44-15 may be changed by reallocating scholarships from a senatorial district in which there are fewer qualified applicants than the number of available scholarships to a senatorial district in which there are more qualified applicants than the number of available scholarships."

SECTION 2. This Act shall take effect upon its approval; provided, that the term and conditions of state scholarships in effect on the effective date of this Act shall continue to apply to their recipients insofar as they maintain a satisfactory standard of scholarship and deportment.

(Approved July 10, 1961.) **S.B. 282.**

## ACT 173

An Act Providing for the Relief of Persons Suffering Property Damage Due to Natural Disasters and Making Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Definitions.** As used in this Act:

(a) "Commission" means the natural disaster claims commission of a county wherein a taxpayer resides, established pursuant to the provisions of this Act.

(b) "Natural disaster" means any unfortunate, sudden, and extraordinary damages caused by seismic wave, tsunami, hurricane, volcanic eruption, typhoon or earthquake declared by the governor pursuant to section 2 of this Act to have caused losses and suffering of such character and magnitude as to require and justify rehabilitative assistance from the State.

(c) "Director" means the director of taxation.

(d) "Tax benefit" means the product of the income tax rate of the State or federal tax law of the claimant times the amount of deduction allowed for the particular natural disaster by the commission or the federal internal revenue service, as the context so requires.

**SECTION 2. Governor's determination.** Upon the occurrence of a natural disaster, the governor may make a determination as to whether a natural disaster has occurred and thereafter may declare a natural disaster for the entire State or any portion thereof. In making this determination the governor shall consider whether the effect on the health and living standards of a substantial number of persons and the effect on the economy of the State are of such a nature, as to warrant assistance from the State government.

**SECTION 3.** Whenever, pursuant to section 2 of this Act, the governor has declared that a natural disaster has occurred, there shall be established in each county affected, a natural disaster claims commission as defined in subsection (a) of section 1, whose duties shall be to receive, process and pass upon the application for tax relief by certification as provided for in this Act. The commissions shall be composed of three members each who may be residents of the county for which the commission is formed. At least one of the members of the commission shall be a qualified appraiser. The members of the commission shall be appointed by the governor. No person shall sit as a member of a commission for a particular disaster in which he has any interest, directly or indirectly, in any type of claim, or who is related to any claimant by affinity or consanguinity within the third degree or who is employed by, is an agent of, or is connected in business with any one or more of the claimants. The commission shall continue in existence until all losses within the particular county are fully determined and certified. The members of the commission shall elect their chairman and shall serve without pay, but shall be reimbursed by the State for any reasonable and necessary

expense incurred in the course of their duties as such commissioners. The members of the commission shall have the power to administer oaths or affirmations with respect to any matter falling within the scope of the duties of the commission. Each commission established pursuant to this section shall be placed within the department of taxation for supervision.

SECTION 4. (a) In case of losses due to the damage or destruction of real or personal property of a claimant resulting from a natural disaster and certified by the commission, the director is authorized to remit, refund or forgive the taxes hereafter mentioned, due or to become due from the claimant suffering such losses, in the manner provided in subsections (b) and (c) of this section.

(b) The claimant shall, on or before December 31, of the year in which the disaster occurred or such other date as may be prescribed by the commission, but not to exceed six months from the date of occurrence of the natural disaster, file a claim, under oath with such commission setting forth the amount of his losses. The commission shall thereupon investigate the claim and determine the total loss suffered by reason of the damage or destruction of the real or personal property based on the market value on the date of such natural disaster. The total loss shall be determined by taking the difference between the market value immediately prior to the date of the natural disaster and the market value immediately after the date of the natural disaster. The losses to be certified to the director of taxation from the total losses recognized by the commission shall be computed by the commission as follows: (1) deduct all insurance benefits received or to be received by the claimant by reason of the damage or destruction of the property as a result of the natural disaster; (2) deduct the portion of the losses resulting from insurable property in excess of \$100,000; (3) deduct tax benefits from the federal internal revenue service, and (4) deduct any other recoveries. The balance remaining after the foregoing deductions have been deducted from the total losses recognized shall be the loss certified to the director of taxation. The finding of the commission as to the amount of such loss shall be final for chapters 117, 121 and 128, Revised Laws of Hawaii 1955, as amended, notwithstanding the provisions of section 121-5 of said chapter 121.

Whenever the market value for the purpose of the total losses of any real property is determined under this subsection, the market value utilized as the value of the property immediately after the disaster shall be prima facie evidence of the value of such real property as of the time immediately after the natural disaster whenever said real property is thereafter condemned, exchanged or purchased by the State or any of its political subdivisions.

(c) Upon receipt of the certification of losses from the commission, the director shall remit or refund from the current general revenues of the State or forgive, for a period not to exceed 5 years commencing January 1 of the year in which the disaster occurred, (1) all real property taxes for that year and thereafter as provided above, due and payable by the claimant on account of any real property under the provisions of chapter 128 and (2) all taxes due under the provisions of chapter 117, Revised Laws of Hawaii 1955, as amended, from the claimant on account of any trade or business conducted by the claimant on the island on which the losses were incurred for the year in which the disaster occurred, and thereafter as provided above, until the amount of the loss certified is recovered up to the limits provided

in section 7 of this Act or until the expiration of said 5 year period, whichever shall first occur.

SECTION 5. A claim filed and certified by the commission pursuant to section 4 above shall be subject to review by such commission in the event substantial and new evidence should show more accurately the amount of losses suffered from damage by destruction of real or personal property resulting from the natural disaster provided, however, that any such substantial and new evidence shall only be acceptable if applicable as of the date the losses were incurred. In such event, the taxpayer shall have the right to file an amended claim within 6 months from the filing of the original claim and the commission shall have authority to hold hearings to require further proof of the amount of the loss initially claimed by the taxpayer. The determination of the loss by the commission on the amended claim shall be final. In the event of any change in the amount of the certification furnished to the director, the commission shall notify the director of such adjustments, and appropriate adjustments in the remitting, refunding, or forgiveness of taxes above provided for shall be made by the director, as the case may be; in case any adjustments are made, any tax refunded which exceeds the amount of adjusted loss recoverable may be collected in the same manner as a tax due and payable under chapters 117, 121 or 128 as the case may be.

SECTION 6. The University of Hawaii or its designated representatives are hereby directed to establish standards or formulas which will, as equitably as possible, establish the amount of losses sustained by persons filing claims for crop damage due to a natural disaster. All persons filing claims for crop loss shall make available to the University of Hawaii or its designated agents all information deemed necessary by said University or its agents to establish such standards or formulas. The commission shall adopt the standards or formulas established by the University of Hawaii or its designated representatives and shall apply such standards or formulas in processing and certifying the claims of persons suffering crop loss. The commission shall not certify any claims of crop loss of any person who refuses to make available such information.

SECTION 7. No claimant shall recover remittances, refunds or forgiveness of taxes in excess of \$500,000 for all taxes due under chapters 117, 121 and 128, Revised Laws of Hawaii 1955 against the total losses certified by the commission; nor shall any claimant recover in excess of \$350,000 for all taxes due under chapters 117 and 128, nor shall any claimant recover in excess of \$250,000 for all taxes due under chapter 117. In no event shall any claimant recover any amount whatsoever in excess of his losses certified by the commission through the foregoing taxes, nor recover any amounts in excess of the limits set forth in this section; provided however, that he may use any one or more of the foregoing taxes as a basis for his remittance, refund or forgiveness of the taxes so long as it does not exceed any of the limits as herein set forth, and the taxes became due for trade, business or income derived on the island on which the losses were incurred.

SECTION 8. The original claimant may be an individual or a legal entity recognized as a separate entity under chapter 121, Revised Laws of Hawaii 1955 by the director of taxation. The tax relief authorized by this Act shall not be applicable to transferees, heirs or assignees of a claimant unless such transferees, heirs or assignees are either the spouse or children of the original claimant.

SECTION 9. For the purpose of subparagraph (2) of subsection (b) of section 4, the term "insurable property" shall refer to such real or personal property on which a claimant may be able to secure insurance to protect himself against losses from such natural disasters as defined herein from an insurance company organized under the laws of the State of Hawaii or any other state of the United States or any province of Canada and authorized to do business in the State of Hawaii.

SECTION 10. Notwithstanding section 2 of this Act, the commissions authorized by section 3 of this Act are hereby established for purposes of this section. The victims of the Puna volcanic eruption of 1960 and the tsunami of 1960 are hereby declared eligible for the tax relief provided by this Act and shall not be subject to the limitation on insurable property as set forth in subsection 4(b)(2). A single commission shall receive the claims of the foregoing disasters for a period of six months from the effective date of this Act notwithstanding the provisions of Section 4(b). For purposes of sections 4 and 5 of this Act the volcanic eruption of 1960 and the tsunami of 1960 shall be considered as a single natural disaster.

SECTION 11. There is hereby appropriated from the general revenues of the State not otherwise appropriated, the sum of \$25,000 or so much thereof as may be necessary, for any commission established pursuant to section 10 of this Act for the purpose of reimbursement of expenses incurred by said commission. The governor of this State is authorized to use his contingency fund when necessary for use by any commission established during the future occurrence of any natural disaster.

SECTION 12. If any section, subsection, paragraph, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decisions shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have approved this Act and each section, subsection, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 13. This Act shall take effect upon its approval.

(Approved July 10, 1961.) **S.B. 461.**

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## ACT 174

An Act Pertaining to Fraternal Benefit Societies Which May Conduct the Business of Insurance.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 181, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new Chapter 181-A to read as follows:

### **"CHAPTER 181-A. FRATERNAL BENEFIT SOCIETIES.**

**"Section 181-800. Scope of sections 181-801 to 181-843.** The provisions of sections 181-801 to 181-843 relate only to fraternal benefit societies as hereinafter defined which desire to be authorized to pay benefits in accordance with the provisions of sections 181-801 to 181-843 after the effective

date of said sections. None of the provisions of sections 181-801 to 181-843 shall be deemed to apply to mutual benefit societies existing or exempted under the provisions of chapter 185, Revised Laws of Hawaii 1955, and any mutual benefit society existing and authorized to pay benefits pursuant to the provisions of said chapter 185 on the day before the effective date of sections 181-801 to 181-843 may continue to be so authorized and shall continue to be regulated or exempted by the provisions of said chapter 185.

**“Section 181-801. Fraternal benefit societies defined.** Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of section 181-842(b) of this chapter whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which makes provision for the payment of benefits in accordance with this chapter, is hereby declared to be a fraternal benefit society. When used in this chapter the word ‘society,’ unless otherwise indicated, shall mean fraternal benefit society.

**“Section 181-802. Lodge system defined.** A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches shall be required by the laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system.

**“Section 181-803. Representative form of government defined.** A society shall be deemed to have a representative form of government when :

“(a) It provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society’s constitution and laws ;

“(b) The representatives elected constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws ;

“(c) The meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four calendar years ;

“(d) Each insured member shall be eligible for election to act or serve as a delegate to such meeting ;

“(e) The society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society ;

“(f) Such board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of such body ;

“(g) The officers are elected either by the supreme legislative or governing body or by the board of directors ; and

“(h) The members, officers, representatives or delegates shall not vote by proxy.

**"Section 181-804. Organization.** The organization of a society shall be governed as follows:

"(a) Seven or more citizens of the United States, a majority of whom are citizens of this State, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

"(1) the proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

"(2) the purposes for which it is being formed and the mode in which its corporate powers are to be exercised. Such purposes shall not include more liberal powers than are granted by this chapter, provided that any lawful, social, intellectual, educational, charitable, benevolent, moral, fraternal or religious advantages may be set forth among the purposes of the society; and

"(3) the names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

"(b) Such articles of incorporation, duly certified copies of the constitution, laws, and rules, copies of all proposed forms of certificates, application therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one year shall be filed with the commissioner, who may require such further information as he deems necessary. The bond with sureties approved by the commissioner shall be in such amount, not less than five thousand dollars, nor more than twenty-five thousand dollars, as required by the commissioner. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this chapter and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate authorizing the society to solicit members as hereinafter provided.

"(c) No preliminary certificate granted under the provisions of this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the five hundred applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the preliminary certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business as hereinafter provided.

"(d) Upon receipt of a preliminary certificate from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for

the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

“(1) actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars on not less than five hundred lives;

“(2) all such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society;

“(3) certificates of examinations or acceptable declarations of insurability have been duly filed and approved by the chief medical examiner of the society;

“(4) ten subordinate lodges or branches have been established into which the five hundred applicants have been admitted;

“(5) there has been submitted to the commissioner under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

“(6) it shall have been shown to the commissioner by sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least twenty-five hundred dollars, all of which shall be credited to the fund or funds from which benefits are to be paid and no part of which may be used for expenses. Said advance premiums shall be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as herein provided, such premiums shall be returned to said applicants.

“(e) The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to the society a certificate to that effect and that the society is authorized to transact business pursuant to the provisions of this chapter. The certificate shall be prima facie evidence of the existence of the society at the date of such certificate. The commissioner shall cause a record of such certificate to be made. A certified copy of such record may be given in evidence with like effect as the original certificate.

“(f) Every society shall have the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

“(g) Nothing contained herein shall exempt the society from the provisions and requirements of sections 172-16 and 172-17, Revised Laws of Hawaii 1955.

**“Section 181-805. Corporate powers retained.** Except as provided in section 181-800, any incorporated society authorized to transact business in this State at the time this chapter becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this chapter and in its charter



or articles of incorporation as far as consistent with this chapter. A domestic society shall not be required to reincorporate.

**“Section 181-806. Existing voluntary associations may incorporate.** Except as provided in section 181-800, after one year from the effective date of this chapter, no unincorporated or voluntary association shall be permitted to transact business in this State as a fraternal benefit society. Any domestic voluntary association now authorized to transact business in this State may incorporate and shall receive from the commissioner a permanent certificate of incorporation as a fraternal benefit society when:

“(a) it shall have completed its conversion to an incorporated society not later than one year from the effective date of this chapter;

“(b) it has filed its articles of incorporation and has satisfied the other requirements described in section 181-804; and

“(c) the commissioner shall have made such examination and procured whatever additional information he shall deem advisable.

Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation. Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

**“Section 181-807. Location of office and place of meeting.** The principal office of any domestic society shall be located in this State. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State.

**“Section 181-808. Consolidations and mergers.** A domestic society may consolidate or merge with any other society by complying with the provisions of this section. To so comply, it shall file with the commissioner:

“(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

“(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commissioner but not earlier than December thirty-first, next preceding the date of the contract;

“(c) A certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and

“(d) Evidence that at least sixty days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other

state or territory. In such event the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the commissioner of this State or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of such state or territory and a certificate of such approval filed with the commissioner of this State. Upon the consolidation or merger becoming effective as herein provided, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this State in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger. The affidavit of any officer of the society or of any one authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

**"Section 181-809. Conversion of fraternal benefit society into mutual life insurance company.** Any domestic fraternal benefit society may be converted and licensed as a mutual life insurer by compliance with all the requirements of this chapter pertaining to mutual life insurers if such plan of conversion has been approved by the commissioner. Such plan shall be prepared in writing setting forth in full the terms and conditions thereof. The board of directors shall submit such plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy of such plan with the notice of such meeting. Such notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of two-thirds of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the commissioner who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

**"Section 181-810. Qualifications for membership.** A society may admit to benefit membership any person not less than fifteen years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six months after becoming a benefit member shall furnish additional evidence of insurability acceptable to the society. Any person admitted prior to attaining the full age of twenty-one years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority has been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

**"Section 181-811. Articles of incorporation, constitution and laws and amendments.** "(a) A domestic society may amend its articles of incorpora-

tion, constitution or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its articles of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amendment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

“(b) No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commissioner who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this State or with the character, objects and purposes of the society. Unless the commissioner shall disapprove any such amendment within sixty days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves such amendment, the reasons therefor shall be stated in such written notice.

“(c) Within ninety days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof shall be furnished to all members of the society either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

“(d) Every foreign or alien society authorized to do business in this State shall file with the commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within ninety days after the enactment of same.

“(e) Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

**“Section 181-812. Institutions.** It shall be lawful for a society to create, maintain and operate charitable, benevolent or educational institutions for the benefit of its members and their families and dependents and for the benefit of children insured by the society. For such purpose it may own, hold or lease personal property or real property located within or without this State, with necessary buildings thereon. Such property shall be reported in every annual statement but shall not be allowed as an admitted asset of such society. Maintenance, treatment and proper attendance in any such institution may be furnished free or a reasonable charge may be made therefor, but no such institution shall be operated for profit. The society shall maintain a separate accounting of any income and disbursements under this section and report them in its annual statement. No society shall own or operate funeral homes or undertaking establishments.

**"Section 181-813. No personal liability.** The officers and members of the supreme, grand or any subordinate body of a society shall not be personally liable for payment of any benefits provided by a society.

**"Section 181-814. Benefits.** "(a) A society authorized to do business in this State may provide for the payment of :

"(1) death benefits in any form ;

"(2) endowment benefits ;

"(3) annuity benefits ;

"(4) temporary or permanent disability benefits as a result of disease or accident ;

"(5) hospital, medical or nursing benefits due to sickness or bodily infirmity or accident ; and

"(6) monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars ; and

"(b) Such benefits may be provided on the lives of members or upon application of a member, on the lives of the member's family, including the member, the member's spouse and minor children, in the same or separate certificates.

**"Section 181-815. Benefits on lives of children.** "(a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than twenty-one years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section 181-814(a). A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.

"(b) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

**"Section 181-816. Nonforfeiture benefits, cash surrender values, certificate loans and other options.** "(a) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As to certificates issued on and after the effective date of sections 181-801 to 181-843, a society shall grant at least one paid-up nonforfeiture benefit, except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts or contracts of term insurance of uniform amount of fifteen years or less expiring before age sixty-six.

"(b) In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (1) over (2) as follows :

"(1) the reserve under the certificate determined on the basis specified in the certificate ; and

"(2) the sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half per cent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

"(c) In the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty per cent of those shown by the mortality table specified in the certificate for the computation of the reserve.

"(d) In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this State applicable to life insurers issuing policies containing like insurance benefits based upon such tables.

**"Section 181-817. Beneficiaries.** "(a) The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

"(b) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of \$500.

"(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

**"Section 181-818. Benefits not attachable.** No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

**"Section 181-819. The contract.** "(a) Every society authorized to do business in this State shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate

shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.

“(b) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

“(c) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

“(d) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received in evidence of the terms and conditions thereof.

“(e) A society shall provide in its constitution or laws that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the certificate and draw interest not to exceed five per cent per annum compounded annually.

**“Section 181-820. Life benefit certificate provisions, standard and prohibited filing of forms.** “(a) After one year from the effective date of this chapter, no life benefit certificate shall be delivered or issued for delivery in this State unless a copy of the form shall have been filed with the commissioner. The certificate shall contain in substance the following standard provisions or in lieu thereof, provisions which are more favorable to the member :

“(1) title on the face and filing page of the certificate clearly and correctly describing its form ;

“(2) a provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate ;

“(3) a provision that the member is entitled to a grace period of not less than a full month (or thirty days at the option of the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate ;

“(4) a provision that the member shall be entitled to have the certificate reinstated at any time within three years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premium and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six per cent per annum compounded annually ;

“(5) except in the case of pure endowment, annuity or reversionary annuity contracts reducing term insurance contracts, or contracts of term in-

surance of uniform amount of fifteen years or less expiring before age sixty-six, a provision that, in the event of default in payment of any premium after three full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified herein. The certificate may provide, if the society's laws so specify or if the member shall so elect prior to the expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate;

"(6) a provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than sixty days after the due date of the premium in default;

"(7) a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits;

"(8) a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first twenty certificate years or during the term of the certificate whichever is shorter;

"(9) a provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for non-payment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be accepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two years from date of reinstatement with the same exceptions as herein provided;

"(10) a provision that in case the age or sex of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age or sex has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age and sex; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age and sex according to the society's promulgated rates and any extension thereof based on actuarial principles;

"(11) a provision or provisions which recite fully, or which set forth the substance of, all sections of the charter, constitution, laws, rules or regulations of the society, in force at the time of issuance of the certificate, the violation of which will result in the termination of, or in the reduction of, the benefit or benefits payable under the certificate; and

"(12) if the constitution or laws of the society provide for expulsion or suspension of a member, any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

"(b) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate.

"(c) After one year from the effective date of sections 181-801 to 181-843, no life benefit certificate shall be delivered or issued for delivery in this State containing in substance any of the following provisions:

"(1) any provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue;

"(2) any provision by which the certificate shall purport to be issued or to take effect more than six months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

"(3) any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

"(d) The word 'premiums' as used in this chapter means premiums, rates, or other required contributions by whatever name known.

**"Section 181-821. Accident and health insurance, total and permanent disability insurance certificates and filing of forms.** No domestic, foreign or alien society authorized to do business in this State shall issue or deliver in this State any certificate or other evidence of any contract of accident insurance or health insurance or of any total and permanent disability insurance contract unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commissioner. The commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to the provisions of the pertinent sections of this chapter relating to health and accident and disability policies. Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of the foregoing sections, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member.

**"Section 181-822. Waiver.** The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.



**"Section 181-823. Reinsurance.** A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance and authorized to do business in this State, or if not so authorized, one which is approved by the commissioner; but no such society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on such ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of sections 181-801 to 181-843, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

**"Section 181-824. Annual license.** Except as provided in section 181-800, societies which are now authorized to transact business in this State may continue such business until the first day of May next succeeding the effective date of sections 181-801 to 181-843. The authority of such societies and all societies hereafter licensed, may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding May. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the commissioner five dollars. A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

**"Section 181-825. Foreign or alien society—admission.** No foreign or alien society shall transact business in this State without a license issued by the commissioner. Any such society may be licensed to transact business in this State upon filing with the commissioner:

- "(a) A duly certified copy of its charter or articles of incorporation;
- "(b) A copy of its constitution and laws, certified by its secretary or corresponding officer;
- "(c) A power of attorney to the commissioner as prescribed in section 181-829;
- "(d) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the commissioner of this State;
- "(e) A certificate from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;
- "(f) Copies of its certificate forms; and
- "(g) Such other information as he may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this chapter. Any foreign or alien society desiring admission to this State shall have the qualifications required of domestic societies organized under this chapter.

**"Section 181-826. Injunction, liquidation and receivership of domestic society.** "(a) When the commissioner upon investigation finds that a domestic society:

“(1) has exceeded its powers ;

“(2) has failed to comply with any provision of this chapter ;

“(3) is not fulfilling its contracts in good faith ;

“(4) has a membership of less than four hundred after an existence of one year or more ; or

“(5) is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business ;

he shall notify the society of his findings, state in writing the reason for his dissatisfaction, and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in quo warranto should not be commenced against the society.

“(b) If on such date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business or in quo warranto.

“(c) The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

“(d) No society so enjoined shall have the authority to do business until :

“(1) the commissioner finds that the violation complained of has been corrected ;

“(2) the costs of such action shall have been paid by the society if the court finds that the society was in default as charged ;

“(3) the court has dissolved its injunction ; and

“(4) the commissioner has reinstated the certificate of authority.

“(e) If the court orders the society liquidated, it shall be enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money and other assets of the society and, under the direction of the court, proceed forthwith to close the affairs of the society and to distribute its funds to those entitled thereto.

“(f) No action under this section shall be recognized in any court of this State unless brought by the attorney general upon request of the commissioner. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as such receiver.

“(g) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

**“Section 181-827. Suspension, revocation or refusal of license of foreign or alien society.** “(a) When the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this State :

“(1) has exceeded its powers ;

“(2) has failed to comply with any of the provisions of this chapter ;

“(3) is not fulfilling its contracts in good faith ; or

“(4) is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public; he shall notify the society of his findings, state in writing the reasons for his dissatisfaction and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on such date the society does not present good and sufficient reason, why its authority to do business in this State should not be suspended, revoked or refused, he may suspend or refuse the license of the society to do business in this State until satisfactory evidence is furnished to him that such suspension or refusal should be withdrawn or he may revoke the authority of the society to do business in this State.

“(b) Nothing contained in this section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this State during the time such society was legally authorized to transact business herein.

**“Section 181-828. Licensing of agents.** Agents of societies shall be licensed in accordance with the provisions of this section.

“(a) Insurance agent defined. The term ‘insurance agent’ as used in this section means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that the term ‘insurance agent’ shall not include:

“(1) any regular salaried officer or employee of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

“(2) any agent or representative of a society who devotes, or intends to devote, less than fifty per cent of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars, or, in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty per cent of his time to the solicitation or procurement of insurance contracts for such society.

“(b) License required. Any person who in this State acts as insurance agent for a society without having authority so to do by virtue of a license issued and in force pursuant to the provisions of this section shall, except as provided in paragraph (a), be guilty of a misdemeanor.

“(c) Payment of commissions forbidden. No society doing business in this State shall pay any commission or other compensation to any person for any services in obtaining in this State any new contract of life, accident or health insurance, or any new annuity contract, except to a licensed insurance agent of such society and except an agent exempted under subsection (a) (2) of this section.

“(d) Prerequisites, issuance and renewal of insurance agents’ licenses.

“(1) the commissioner may issue a license to any person who has paid an annual license fee of \$5.00 and who has complied with the requirements of this section, authorizing such licensee to act as an insurance agent on be-

half of any society named in such license which is authorized to do business in this State.

“(2) before any insurance agent’s license shall be issued there shall be on file in the office of the commissioner the following documents :

“(i) a written application by the prospective licensee in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe ; and

“(ii) a certificate by the society which is to be named in such license, stating that such society has satisfied itself that the named applicant is trustworthy and competent to act as such insurance agent and that the society will appoint such applicant to act as its agent if the license applied for is issued by the commissioner. Such certificates shall be executed and acknowledged by an officer or managing agent of such society.

“(3) no written or other examination shall be required of any individual seeking to be named as a licensee to represent a fraternal benefit society as its agent.

“(4) the commissioner may refuse to issue or renew any insurance agent’s license if in his judgment the proposed licensee is not trustworthy and competent to act as such agent, or has given cause for revocation or suspension of such license, or has failed to comply with any prerequisite for the issuance or renewal, as the case may be, of such license.

“(5) every license issued pursuant to this section, and every renewal thereof, shall expire on December thirty-first of the even-numbered calendar year following the calendar year in which such license or renewal license was issued.

“(6) if the application for a renewal license shall have been filed with the commissioner on or before December thirty-first of the year in which the existing license is to expire, such applicant named in such existing license may continue to act as insurance agent under such existing license, unless same shall be revoked or suspended, until the issuance by the commissioner of the renewal license or until the expiration of five days after he shall have refused to renew such license and shall have served written notice of such refusal on the applicant. If the application shall, within thirty days after such notice is given, notify the commissioner in writing of his request for a hearing on such refusal, the commissioner shall, within a reasonable time after receipt of such notice, grant such hearing, and he may, in his discretion, reinstate such license.

“(7) any such renewal license of an insurance agent may be issued upon the application of the society named in the existing license. Such application shall be in the form or forms prescribed by the commissioner and shall contain such information as he may require. Such application shall contain a certificate executed by the president, or by a vice president, a secretary, an assistant secretary, or corresponding officer by whatever name known, or by an employee expressly designated and authorized to execute such certificate of a domestic or foreign society or by the United States manager of an alien society, stating that the addresses therein given of the agents of such society for whom renewal licenses are requested therein have been verified in each instance immediately preceding the preparation of the application. Notwithstanding the filing of such application, the commissioner may, after reasonable notice to any such society, require that any or all agents of such society to be named as licensees in renewal licenses shall execute and file separate applications for the renewal of such licenses, as hereinbefore spe-

cified, and he may also require that each such application shall be accompanied by the certificate specified in item (2) (ii) of paragraph (d) of this section.

“(e) Notice of termination of appointment of insurance agent. Every society doing business in this State shall, upon the termination of the appointment of any insurance agent licensed to represent it in this State, forthwith file with the commissioner a statement, in such form as he may prescribe, of the facts relative to such termination and the cause thereof. Every statement made pursuant to this section shall be deemed a privileged communication.

“(f) Revocation or suspension of insurance agent’s license.

“(1) The commissioner may revoke or may suspend for such period as he may determine, any insurance agent’s license if, after notice and hearing as specified in this section, he determines that the licensee has :

“(i) violated any provision of, or any obligation imposed by, this section, or has violated any law in the course of his dealings as agent ;

“(ii) made a material misstatement in the application for such license ;

“(iii) been guilty of fraudulent or dishonest practices ;

“(iv) demonstrated his incompetency or untrustworthiness to act as an insurance agent ; or

“(v) been guilty of rebating as defined by the laws of this State applicable to life insurance companies.

“(2) The revocation or suspension of any insurance agent’s license shall terminate forthwith the license of such agent. No individual whose license has been revoked shall be entitled to obtain any insurance agent’s license under the provisions of this section for a period of one year after such revocation or, if such revocation be judicially reviewed, for one year after the final determination thereof affirming the action of the commissioner in revoking such license.

**“Section 181-829. Service of process.** “(a) Every society authorized to do business in this State shall appoint in writing the commissioner and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree in such writing that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by said commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted.

“(b) Service shall only be made upon the commissioner, or if absent, upon the person in charge of his office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, he shall forthwith forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No such service shall require a society to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner herein provided. At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee of \$2.00.

**“Section 181-830. Injunction.** No application or petition for injunction against any domestic, foreign or alien society, or branch thereof, shall be recognized in any court of this State unless made by the attorney general upon request of the commissioner.

**“Section 181-831. Review.** All decisions and findings of the commissioner made under the provisions of sections 181-801 to 181-843 shall be subject to review by proper proceedings in any court of competent jurisdiction in this State.

**“Section 181-832. Funds.** “(a) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in the contract.

“(b) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of such society.

“(c) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this chapter, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

**“Section 181-833. Investments.** A society shall invest its funds only in such investments as are authorized by the laws of this State for the investment of assets of life insurance companies and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this State which invests its funds in accordance with the laws of the state, district, territory, country or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

**“Section 181-834. Reports and valuations.** Reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section.

“(a) Every society transacting business in this State shall annually, on or before the first of March, unless for cause shown such time has been extended by the commissioner, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of \$5.00 for filing same. The statement shall be in general form and context as approved by the National Association of Insurance Commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

“(b) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than June 1 of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

“(c) As a part of the annual statement herein required, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December thirty-first last preceding provided, the commissioner may, in his discretion for cause shown, extend the time

for filing such valuation for not more than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates. At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this chapter shall be determined in accordance with the provisions of law applicable prior to the effective date of this chapter and as to certificates issued on or after one year from the effective date of this chapter shall not be less than the reserves determined according to the Commissioners' Reserve Valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

"(d) Reserves according to the Commissioners' Reserve Valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of item (1) over item (2), as follows:

"(1) a net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per cent per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

"(2) a net one-year term premium for such benefits provided for in the first certificate year.

"(e) Reserves according to the Commissioners' Reserve Valuation method for life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, annuity and pure endowment benefits, disability and accidental death benefits in all certificates and contracts, and all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of this subsection.

"(f) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in the following subsection.

“(g) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the Department of Insurance of the state of domicile of the society.

“(h) The minimum standards of valuation for certificates issued prior to one year from the effective date of this chapter shall be those provided by the law applicable immediately prior to the effective date of this chapter but not lower than the standards used in the calculating of rates for such certificates.

“(i) the minimum standard of valuation for certificates issued after one year from the effective date of this chapter shall be three and one-half per cent interest and the following tables:

“(1) for certificates of life insurance—American Men Ultimate Table of Mortality, with Bowerman's or Davis' Extension thereof or with the consent of the commissioner, the Commissioners 1941 Standard Ordinary Mortality Table, the Commissioners 1941 Standard Industrial Mortality Table or the Commissioners 1958 Standard Ordinary Mortality Table, using actual age of the insured for male risks and an age not more than three years younger than the actual age of the insured for female risks;

“(2) for annuity and pure endowment certificates, excluding any disability and accidental death benefits in such certificates—the 1937 Standard Annuity Mortality Table or the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner;

“(3) for total and permanent disability benefits in or supplementary to life insurance certificates—Hunter's Disability Table or the Class III Disability Table (1926) modified to conform to the contractual waiting period, or the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries with due regard to the type of benefit. Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance certificates;

“(4) for accidental death benefits in or supplementary to life insurance certificates—the Inter-Company Double Indemnity Mortality Table or the 1959 Accidental Death Benefits Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance certificates; and

“(5) for non-cancellable accident and health benefits—the Class III Disability Table (1926) with conference modifications or, with the consent of the commissioner, tables based upon the society's own experience.

“(j) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all certificates of insurance on substandard lives or other extra hazardous lives by any society authorized to do business in this State. Whenever the mortality experience under all certificates valued on the same mortality table is in excess of the expected mortality according to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

“(k) Any society, with the consent of the commissioner of the state of domicile of the society and under such conditions, if any, which he may



impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

“(1) A society neglecting to file the annual statement in the form and within the time provided by this section shall forfeit \$100 for each day during which such neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this State shall cease while such default continues.

**“Section 181-835. Examination of domestic societies.** The commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society and he shall make such examination at least once in every three years. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. The minutes of the proceedings of the supreme legislative or governing body and of the board of directors or corresponding body of a society shall be in the English language. In making any such examination the commissioner may summon and qualify as witnesses under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the society. A summary of the report of the commissioner and such recommendations or statements of the commissioner as may accompany such report, shall be read at the first meeting of the board of directors or corresponding body of the society following the receipt thereof, and if directed so to do by the commissioner, shall also be read at the first meeting of the supreme legislative or governing body of the society following the receipt thereof. A copy of the report, recommendations and statements of the commissioner shall be furnished by the society to each member of such board of directors or other governing body. The expense of each examination and of each valuation, including compensation and actual expense of examiners, shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

**“Section 181-836. Examination of foreign and alien societies.** The commissioner, or any person whom he may appoint, may examine any foreign or alien society transacting or applying for admission to transact business in this State. He may employ assistants and he, or any person he may appoint, shall have free access to all books, papers and documents that relate to the business of the society. He may in his discretion accept, in lieu of such examination, the examination of the insurance department of the state, territory, district, province or country where such society is organized. The compensation and actual expenses of the examiners making any examination or general or special valuation shall be paid by the society examined or by the society whose certificate obligations have been valued, upon statements furnished by the commissioner.

**“Section 181-837. No adverse publications.** Pending, during or after an examination or investigation of a society, either domestic, foreign or alien, the commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any society, until a copy thereof shall have been served upon the society at its principal office and the society shall have been afforded a reasonable opportunity to answer any such finan-

cial statement, report or finding and to make such showing in connection therewith as it may desire.

**"Section 181-838. Misrepresentation.** No person shall cause or permit to be made, issued or circulated in any form :

"(a) Any misrepresentation or false or misleading statement concerning the terms, benefits or advantages of any fraternal insurance contract now issued or to be issued in this State, or the financial condition of any society ;

"(b) Any false or misleading estimate or statement concerning the dividends or shares of surplus paid or to be paid by any society on any insurance contract ; or

"(c) Any incomplete comparison of an insurance contract of one society with an insurance contract of another society or insurer for the purpose of inducing the lapse, forfeiture or surrender of any insurance contract. A comparison of insurance contracts is incomplete if it does not compare in detail :

"(1) the gross rates, and the gross rates less any dividend or other reduction allowed at the date of the comparison ; and

"(2) any increase in cash values, and all the benefits provided by each contract for the possible duration thereof as determined by the life expectancy of the insured ; or if it omits from consideration :

"(3) any benefit or value provided in the contract ;

"(4) any differences as to amount or period or rates ; or

"(5) any differences in limitations or conditions or provisions which directly or indirectly affect the benefits.

"(d) In any determination of the incompleteness or misleading character of any comparison or statement, it shall be presumed that the insured had no knowledge of any of the contents of the contract involved.

"(e) Any person who violates any provision of this section or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or both fine and imprisonment and shall in addition, be liable for a civil penalty in the amount of three times the sum received by such violator as compensation or commission, which penalty may be sued for and recovered by any person or society aggrieved for his or its own use and benefit in accordance with the provisions of civil practice.

**"Section 181-839. Discrimination and rebates.** "(a) No society doing business in this State shall make or permit any unfair discrimination between insured members of the same class and equal expectation of life in the premiums charged for certificates of insurance, in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contracts it makes.

"(b) No society, by itself, or any other party, and no agent or solicitor, personally, or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, any valuable consideration or inducement to, or for insurance, on any risk authorized to be taken by such society, which is not specified in the certificate. No member shall receive or accept, directly or indirectly, any rebate of premium, or part thereof, or agent's or solicitor's commission thereon, payable on any certificate or receive or accept any favor or advantage or share in the dividends or other benefits to accrue on,

or any valuable consideration or inducement not specified in the contract of insurance.

**"Section 181-840. Taxation.** Every association or society organized and operating under this chapter shall be, from the time of such organization, exempt from every state, county and municipal tax, except real property taxes and unemployment compensation taxes; provided, that nothing in this section shall be deemed to exempt such association or society from liability to withhold such taxes payable by its employees and pay the same to the proper collection officers, and to keep such records and make such returns and reports, as may be required in the case of other corporations, associations or societies similarly exempt from the taxes hereinabove first mentioned; provided further, that the exemption hereby granted as to general excise taxes under Chapter 117, Revised Laws of Hawaii 1955, as amended, shall not apply to any activity the primary purpose of which is to produce income.

**"Section 181-841. Exemptions.** Except as herein provided, societies shall be governed by the provisions of sections 181-801 to 181-843 and shall be exempt from all other provisions of the insurance laws of this State, not only in governmental relations with the State, but for every other purpose. No law hereafter enacted shall apply to them, unless they be expressly designated therein.

**"Section 181-842. Exemption of certain societies.** Nothing contained in sections 181-801 to 181-843 shall be so construed as to affect or apply to:

"(a) Grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;

"(b) Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business, and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

"(c) Domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both; or

"(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

"(e) Any such society or association described in paragraphs (c) or (d) of this section which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in paragraph (d) of this section which has more than one thousand members, shall not be exempted from the provisions of sections 181-801 to 181-843 but shall comply with all requirements thereof.

"(f) No society which, by the provisions of this section, is exempt from the requirements of sections 181-801 to 181-843, except any society described in paragraph (b) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

"(g) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to

pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of sections 181-801 to 181-843 except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

“(h) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of sections 181-801 to 181-843.

**“Section 181-843. Penalties.**

“(a) Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any society, shall upon conviction be fined not less than \$100 nor more than \$500 or imprisonment in the county jail not less than thirty days nor more than one year, or both.

“(b) Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by sections 181-801 to 181-843, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

“(c) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this State shall upon conviction be fined not less than \$50 nor more than \$200.

“(d) Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of sections 181-801 to 181-843 for which a penalty is not otherwise prescribed, shall upon conviction, be subject to a fine of not more than \$200.

**“Section 181-844. Severability.** If any provision of this chapter or the application of such provision to any circumstance is held invalid, the remainder of the chapter or the application of the provision to other circumstances, shall not be affected thereby.”

SECTION 2. This Act shall take effect upon its approval.

(Approved July 10, 1961.) **S.B. 922.**

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**ACT 175**

An Act Relating to Amendments to the Employees' Retirement System Law and Making Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6-41(b) of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**“Sec. 6-41(b).** Any member who has attained the age of fifty-five or has had twenty-five years of creditable service, even though separated from service, may at his election retire and receive a retirement allowance consisting of his annuity, computed as provided in section 6-42(a), and a pension and additional pension, if entitled thereto, having a value equal to the

present worth of a deferred pension beginning on the earliest date he would have been eligible to retire in accordance with section 6-41(a) and computed as provided in section 6-42(b) and (c) ;”.

SECTION 2. Section 6-42 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**“Sec. 6-42. Allowance on service retirement.** Except as otherwise provided in section 6-41, upon retirement for service a member shall receive a service retirement allowance as follows:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

(b) If the member has attained age 65 at the time of service retirement, a pension which together with such annuity will provide a total retirement allowance equal to one-sixtieth of the average final compensation of the member multiplied by the total number of years of his creditable service; reduced for Class A members by one two-hundred-eightieth, or one-hundred-fortieth if the member elected to reduce his contributions as provided in section 6-83, of the part of his average final compensation net in excess of \$4,200 per annum multiplied by the number of years of his creditable service rendered subsequent to December 31, 1955 for which he received compensation covered by social security. If the member has not attained age 65 at the time of service retirement his pension shall be the greater of:

(1) A pension which together with his annuity will provide a total retirement allowance having a value equal to the present worth of a deferred retirement allowance beginning at age 65 and computed as above; or

(2) A pension equal to one one-hundred-fortieth of his average final compensation multiplied by the number of years of his membership service; and, if he has a prior service certificate in full force and effect, an additional pension which shall be equal to one-seventieth of his average final compensation multiplied by the number of his years of service certified to him on his prior service certificate; provided that if the member is a Class A member such pension payable subsequent to the attainment of age sixty-five shall be reduced by one two-hundred-eightieth of the part of his average final compensation not in excess of \$4,200 per annum multiplied by the number of years of his creditable service subsequent to December 31, 1955 for which he received compensation covered by social security; except that the reduced pension payable after age 65 shall not be less than the amount of pension computed under paragraph (1) above.

Notwithstanding the foregoing, in the case of a fireman or a policeman, the service retirement allowance shall consist of a pension, in addition to the annuity, which shall consist of: (1) 1 per cent of his average final compensation for each of his first twenty-five years of creditable service rendered after June 30, 1957; (2)  $\frac{3}{4}$  of 1 per cent of his average final compensation for each of the next ten years of creditable service after June 30, 1957; and (3) an additional pension, which when added to the annuity provided by the contributions made by the member prior to June 30, 1957, will result in a total retirement allowance of 2 per cent of his average final compensation for each year of creditable service rendered before July 1, 1957 up to a total of twenty-five years, and  $1\frac{1}{2}$  per cent of his average final compensation for each of the next ten years of creditable service; provided, however, that if such member retiring under the terms of this section had, at any time subsequent to December 31, 1955, service as a Class A member, his pension pay-

able subsequent to the attainment of age 65 shall be reduced by one two-hundred-eightieth of the part of his average final compensation not in excess of \$4,200 per annum multiplied by the number of years of his creditable service subsequent to December 31, 1955 for which he received compensation covered by social security."

SECTION 3. Section 6-45 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 6-45. Allowance on disability retirement.** (a) Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty years; otherwise he shall receive a disability retirement allowance which shall consist of (1) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (2) a pension equal to one one-hundred-fortieth of his average final compensation multiplied by the number of years of membership service that would have been rendered by him were his service to continue to age sixty, except that if a member is a Class A member such pension payable subsequent to the time when the member becomes eligible for a social security benefit shall be reduced by one two-hundred-eightieth of the part of his average final compensation not in excess of \$4,200 multiplied by the number of years of his creditable service that would have been rendered by him subsequent to December 31, 1955 and for which he would have received compensation covered by social security, if his service continued to age sixty; and (3) if he has a prior service certificate in full force and effect an additional pension which shall be equal to one-seventieth of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

(b) Notwithstanding the foregoing, the disability retirement allowance in the case of a fireman or a policeman shall be his annuity plus a pension of ninety per cent of the pension computed on the basis of his average final compensation which would be allowed had he continued in service to attain his minimum age for service retirement, except that if the member had, at any time subsequent to December 31, 1955, service as a Class A member such pension payable subsequent to the time when the member becomes eligible for a social security benefit shall be reduced by ninety per cent of one-two-hundred-eightieth of the part of his average final compensation not in excess of \$4,200 multiplied by the number of years of his creditable service that would have been rendered by him subsequent to December 31, 1955, and for which he would have received compensation covered by social security, if his service continued to his minimum age for service retirement."

SECTION 4. Section 6-47 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 6-47. Allowance on accidental disability retirement.** Upon retirement for accidental disability a member shall receive a retirement allowance which shall consist of: (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension, in addition to the annuity, of sixty-six and two-thirds per cent of his average final compensation, except that if a member was, at any time, a Class A member such pension payable subsequent to the time when the member becomes eligible for a social security benefit, shall be reduced by sixteen and two-thirds per cent of the part of his average final compensation

not in excess of \$4,200 per annum, except that during any period when such social security benefit is reduced by a workmen's compensation benefit the reduction provided hereunder shall be decreased pro rata."

SECTION 5. Section 6-82 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 6-82. Computing employee contributions.** Upon the basis of such tables as the board shall adopt and regular interest, the actuary shall determine for each member the proportion of compensation which, when deducted from each payment of prospective earnable annual compensation prior to his attainment of the age of sixty years and accumulated at regular interest until he reaches such age, shall provide at that time an annuity equal to one one-hundred-fortieth of his estimated average final compensation multiplied by the number of years of his membership service prior to the attainment of the age of sixty years. Such proportion of compensation shall be computed to remain constant.

Notwithstanding the foregoing, in the case of a fireman or policeman, the proportion of compensation shall be computed on the basis of retirement at attainment of age fifty-five and completion of twenty-five years of service, or age sixty, whichever is lower, to provide an annuity equal to the pension allowable on account of membership service rendered after June 30, 1957, in accordance with section 6-42."

SECTION 6. Section 6-90 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new paragraph at the end thereof to read as follows:

"Notwithstanding any other provisions of this chapter to the contrary, the accrued liability on account of any additional retirement benefits by reason of the provisions for retirement allowances equal to one-sixtieth of the average final compensation for each year of service may be liquidated, with the approval of the board, by crediting thereto the unobligated balance of the reserve for future interest deficits accumulated through appropriations heretofore made by the State and by future earnings on system investments in excess of the regular rate until such time as such accrued liability with regular interest has been fully paid."

SECTION 7. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered, and to read as follows:

**"Sec. 6- . Post retirement allowances.** There shall be a post retirement allowance payable to each person receiving any pension, annuity or retirement allowance under the provisions of this chapter, on June 30, 1961, and to each person who first becomes entitled to receive any such pension, annuity or retirement allowance on or after July 1, 1961, as follows:

On the first day of July in each year following June 30, 1961, or the calendar year in which any monthly pension, annuity or retirement allowance was first paid, whichever last occurs, there shall be added to such monthly pension, annuity or retirement allowance and paid to the beneficiary thereof monthly thereafter an amount equivalent to 1½ per cent of the amount of such monthly pension, annuity or retirement allowance as originally computed, approved and paid."

SECTION 8. Section 6-72 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 6-72. Funds of the system.** The funds created by this part are the annuity savings fund, the annuity reserve fund, the pension accumulation fund, the pension reserve fund, the post retirement fund, the expense fund, and the minimum pension fund."

SECTION 9. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered and to read as follows:

**"Sec. 6- . Post retirement fund.** The post retirement fund shall be the fund to which shall be credited all moneys contributed by the members and provided by the State and counties to pay the post retirement allowances and from which all post retirement allowances shall be paid in accordance with the provisions of section 6- . Annually, the board shall estimate the amount of money that the State and the counties shall contribute to this fund on the basis of  $\frac{1}{2}$  of 1 per cent of the total compensation earnable during the preceding year by all members who were employees of the State or counties, as the case may be, as determined by the annual valuation of the actuary. Such amount shall be prorated among the State and the respective counties upon the basis of the payrolls as aforesaid and each shall pay its pro rata share thereof."

SECTION 10. Section 6-82 of the Revised Laws of Hawaii 1955, as amended by section 5 of this Act, is hereby further amended by adding a third paragraph thereto to read as follows:

"In addition to the foregoing, the proportion of earnable compensation to be assigned after June 30, 1961, shall be increased by  $\frac{1}{2}$  of 1 per cent to provide employee contributions to the post retirement fund."

SECTION 11. There is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$1,347,510 or so much thereof as may be necessary, to be credited to the post retirement fund.

SECTION 12. Chapter 6 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto a new part to be numbered and to read as follows:

## **"PART VII BONUS PAYMENT**

**Sec. 6-250.** Any law to the contrary notwithstanding, every pension payable under the employees' retirement system of the State or payable under or pursuant to any law of the State, or by any county or independent public board or commission, shall be increased by a bonus for each month as follows:

(a) Fifty dollars (\$50.00) per month to those retirants and pensioners who had, on or before June 30, 1966, 10 or more years of service; provided, that any member who is retired because of physical or mental disability due to any injury or disease incurred while in the performance of his duty as a public employee shall be entitled to receive the bonus payment without meeting the said minimum service requirement;

(b) Twenty dollars (\$20.00) per month additional to the above bonus to those retirants or pensioners who retired before July 1, 1945;

(c) Twenty dollars (\$20.00) per month additional to the above bonus or bonuses to those retirants or pensioners who have had 21 or more years



of service; provided, that if the pension as increased by said bonus or bonuses does not equal one hundred thirty dollars (\$130.00) per month, the bonus shall be further increased by such sum, not in excess of twenty dollars (\$20.00) as will bring the total of the pension and bonus to one hundred and thirty dollars (\$130.00) per month; provided, further, that where the dependents of a deceased pensioner are receiving pension by reason of his death, the total only of all amounts paid to such dependents shall be so increased, and the increase herein shall be shared by them in proportion to the respective amounts of pension receivable by them exclusive of this increase.

**Sec. 6-251.** No pension payable under the employees' retirement system shall be increased by any bonus for any pensioner unless the beneficiary or the person for whose service the pension is payable has had sufficient service to qualify for the minimum service retirement allowance, except as provided in subparagraph (a) of section 6-250 and no funds appropriated in this Act or by any other act shall be paid in violation of this provision; provided, that this provision shall not operate to increase the pension of any person who was receiving a pensioners' bonus on July 1, 1951, without having met the minimum service requirement, but such person shall continue to receive the pension he was receiving on June 30, 1955.

**Sec. 6-252.** The provisions under section 12 of this Act shall not apply to any person who may retire or may have retired on or after July 1, 1957, and who will receive or who is receiving social security benefits upon his retirement when said benefits are based on contributions made by the State or any of its political subdivisions.

**Sec. 6-253.** The board of trustees of the employees' retirement system of the State is hereby authorized and directed to pay the bonus to pensioners under said system, the comptroller is hereby authorized and directed to pay the bonus to all state pensioners who are not under said system, and the appropriate officer of each county, and each independent board or commission hereby affected, is hereby authorized and directed to pay the bonus granted to pensioners whose pensions are payable by said respective counties, boards and commissions, all such payments to be made from allotments pursuant to section 13 of this Act; and all such boards, commissions and officers are hereby directed to certify to the director of the budget, promptly upon the enactment of this Act, the amounts required to meet such bonus payments as required by the director of the budget.

**Sec. 6-254.** Any veteran who may qualify for a non-service-connected pension through the veterans' administration may waive any portion or all of the benefits that he may receive under this Act."

**SECTION 13.** There is hereby appropriated from the general revenues of the State the sum of \$1,970,000 to pay the bonus provided for by section 12 of this Act, for the period July 1, 1961 to June 30, 1962. Such appropriation shall be allotted by the director of the budget with the approval of the governor to the several boards, commissions and officers required to make such payments, except where there is a specific provision for payment of the bonus from other funds, and in the case of the counties the money so allotted shall be paid into each respective county treasury and held in special funds solely for the purpose of paying bonuses in accordance with section 12 of this Act. The director of the budget is authorized to include in subsequent budgets of the department of budget and review an amount to

carry out the purpose of section 12 of this Act; provided, that no bonus shall be payable to any person retiring after June 30, 1971.

**SECTION 15.\*** This Act shall take effect on July 1, 1961.

(Approved July 10, 1961.) **S.B. 643.**

\* So in original.

## ACT 176

An Act Amending Chapter 82, of the Revised Laws of Hawaii 1955, Relating to Waimano Home and Mental Retardation.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** Chapter 82 of the Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

### **"CHAPTER 82 MENTAL RETARDATION**

**"Section 82-1.** The department of health shall coordinate and supervise a mental retardation program in the State which shall consist of the community clinical services and Waimano training school and hospital. The Director of Health shall be responsible for the administration and control of Waimano training school and hospital.

**Section 82-2. Waimano training school and hospital.** There shall be in the State of Hawaii an institution known as 'Waimano Training School and Hospital' for persons who because of mental defect are incapable of independent self-support and self-management in the community or incapable of attaining such self-support and self-management without proper treatment and training.

**Section 82-3. Same. Rules and regulations.** The director may prescribe rules and regulations necessary for the management of Waimano training school and hospital and appoint and remove, subject to the provisions of law, officers and employees thereof for whose compensation provision has been made by the Legislature, and perform such other acts as are necessary to the proper conduct and management of the institution.

**Section 82-4. Persons incapable of independent self-support and self-management.** Any person who by reason of mental defect is found to be incapable of independent self-support and self-management in the community or to be incapable of attaining such self-support and self-management without proper treatment and training, and who is found to require institutional care, supervision, control, treatment and training for his own welfare or for the welfare of his family or for the welfare of the community and who is found to be afflicted with any of the mental defects set forth in 82-5 shall be subject to commitment to the Waimano training school and hospital.

**Section 82-5. Mentally defective persons.** The mental defects referred to in section 82-4 are as follows: (a) a defect of general mental development associated with chronic brain syndrome; (b) a defect of intelligence existing since birth without demonstrated organic brain disease or known prenatal cause; (c) a defect of intelligence arising after birth, due to infection, trauma or other disease process, or (d) any other mental defect not covered by the foregoing categories.

**Section 82-6. Commitment of mentally defective persons; application, certificate.** Any circuit judge at chambers shall have jurisdiction to order commitments to Waimano training school and hospital and no person sought to be committed shall be entitled to a jury trial of the issues raised by any application for commitment; provided, that, in the first circuit, a minor child may be committed only upon order of the judge of the juvenile court. Any adult relative or the guardian or the custodian of the individual sought to be committed, or any authorized agent of an organization approved under the provisions of sections 108-10 and 108-11 or of any governmental department or bureau, may file in the circuit court of the circuit in which such individual resides, or in the circuit court of the first circuit, an application for the commitment of such individual to Waimano training school and hospital. Such application shall be verified and there shall be attached thereto, a certificate executed and verified by the members of a committee consisting of a physician, a clinical psychologist, and a social worker, all qualified by professional training and experience to make the findings and diagnoses authorized in the provisions of sections 82-4 and 82-5, certifying that the individual sought to be committed has been examined by the members of the committee and has been found to come within the provisions of sections 82-4 and 82-5, and that the individual should be committed to Waimano training school and hospital. Such examinations shall include the administration of psychological tests and psychological evaluations appropriate as an aid in the diagnosis of mental deficiency and such certificate shall include the report of the result of such tests and evaluations as well as the statement of the facts which are alleged to bring the individual within the provisions of section 82-4. Appropriate forms for the application certificate and statement hereinabove referred to shall be furnished by the department of health.

**Section 82-7. Hearing of application; notice, duties of county officers; appeal.** The judge shall, not less than ten days after the filing of such application, conduct a hearing thereon which shall be conducted in the presence of the person sought to be committed. A copy of such application, together with notice of the time and place of the hearing thereon shall be personally served upon the person sought to be committed and upon any parent, guardian or custodian who has not joined in such application, not less than ten days prior to such hearing. In the event that personal service upon such parent, guardian or custodian cannot be effected within the State, service may be made as provided in section 230-31 or 230-32, whichever is applicable. The city and county corporation counsel and the respective county attorneys shall, at the request of any person authorized to file an application as hereinabove provided, prepare, file and present applications under the provisions of this chapter within their respective jurisdictions. Every order of commitment entered under the provisions of this chapter shall contain a specific finding of the facts which bring the individual sought to be committed within the provisions of this chapter. Any such order shall be subject to appeal, under the same terms and provisions as are set forth in section 208-3 by the individual sought to be committed, or by the guardian, or custodian or any adult relative of such individual; provided, that unless specifically so ordered by the supreme court, no such appeal shall operate as a stay of the order of commitment, which shall be executed notwithstanding such appeal, subject to the release of the individual sought to be committed by order of the supreme court at any stage of the appeal.

**Section 82-8. Liability for expense of support of persons committed; wards' liability.** A parent, guardian, or a person liable for the support of any persons committed to the Waimano training school and hospital, as providing by section 82-6, who shall hereinafter be referred to as wards, shall pay such sums as the court may order. Such order may be changed from time to time upon a showing of change of circumstances. The parent or guardian of a minor committed to the Waimano training school and hospital shall not be liable for such support after the person committed has reached the age of majority. The adult children of any person committed to the Waimano training school and hospital shall be liable for the expenses of his support. Every non-indigent ward of Waimano training school and hospital and any property of his estate not exempt from execution, shall be liable for the expenses of his support; and the attorney general, whenever requested by the director, shall take such steps as may be appropriate, by suit if necessary, to compel the payment thereof and secure the payment by the attachment or other sequestration of any property of such ward not exempt from execution.

**Section 82-9. Commitment to Waimano training school and hospital of persons committed to other institutions.** Any person who has legally been ordered to be hospitalized at, or committed to, or imprisoned in any other institution under the control of any state department may, notwithstanding such prior commitment, be committed to Waimano training school and hospital under the provisions of this chapter; provided, that no such person shall be committed to Waimano training school and hospital otherwise than upon the application of the director of the department responsible for the administration of such other institution.

**Section 82-10. Observation and re-examination; certification; finality of order.** No person committed to Waimano training school and hospital shall be detained therein for a period of more than sixty days unless, prior to the expiration of sixty days from the date of admission, or within such further period as may be allowed by the judge, the director of health has caused such person to be observed and examined by one or more qualified physicians and clinical psychologists other than the signers of the certificate referred to in section 82-6 and has filed in the circuit court in which the application for commitment was filed a certificate signed by such examiners and setting forth the results of such observation and examination, and certifying that such person is in need of continued care, custody and treatment in Waimano training school and hospital. Upon the filing of such certificate, the judge may make a final order of commitment and such person shall thereafter remain in Waimano training school and hospital until discharged or paroled or granted leave or transferred in accordance with the provisions of this chapter; provided, that if the judge is not satisfied that a final order of commitment should be entered on the basis of the certificate mentioned in this section, he may order a rehearing of the original application, upon the same terms and conditions as set forth in section 82-7 and may require such further examination and such further certificate as he may deem necessary in order to protect the rights of the alleged mentally defective person, before entering such final order.

**Section 82-11. Discharge; parole; leave of absence; transfer.** The director of health shall discharge any ward as hereinabove provided, whom the director finds to be no longer within the provisions of section 82-4. Such a

finding shall be made only upon the basis of a certificate executed and verified by the members of a committee constituted as provided in section 82-6, setting forth the opinion of the members of the committee, that such ward no longer comes within the provisions of section 82-4 and the reasons for such opinion. Every such finding and certificate upon which the same is based shall be filed in the proceeding by which such ward was committed. Upon the discharge of any ward coming within the provision of section 82-9 at any time prior to the expiration of the period during which such ward could legally have been detained at the institution to which such ward was previously committed or sentenced, such ward shall be returned to the custody of such institution. The director of health may parole or grant a temporary leave of absence to any ward committed as hereinabove provided whom the director finds to be potentially capable of self-support and self-management in the community. Any such leave or parole shall be subject to such terms and conditions as may be imposed by the director and any such ward may be retaken and detained at any time upon the finding of the director that there has been a breach or failure of any such terms and conditions.

**Section 82-12. Right of appeal.** Any ward detained at the Waimano training school and hospital and any parent, relative or friend of such person shall be entitled to apply to an appeals committee consisting of two duly licensed physicians of the State, experienced in the diagnosis and treatment of nervous and mental disorders and one attorney admitted to practice in all courts of the State for a hearing on the question whether such ward comes within the provisions of section 82-4. The members of the committee shall be appointed by the director of health for a term of three years. Upon the receipt of such application, the appeals committee shall gather together all departmental records concerning such ward and shall hold a hearing within 60 days from the date of the receipt of such application. The appeals committee shall consider all of the committee reports upon which the original commitment was based, all subsequent institutional reports, and all available clinical and psychological records relating to the wards on whose behalf the appeal is prosecuted. If the appeals committee finds that the ward does not come within the provisions of section 82-4, such ward shall forthwith be discharged from Waimano training school and hospital. A ward or his personal representative shall be allowed one appeal a year.

**Section 82-13. Enticing, secreting, etc., penalty.** Any person who knowingly or intentionally entices away any ward committed or admitted to Waimano training school and hospital, or who knowingly harbors or secretes any such ward who has deserted or been enticed away from the authority of the institution or who has left or forsaken his parents, employer, or the person with whom the ward has been placed or stationed by the director without the permission of such parent, employer or person shall be fined not more than \$1,000 or imprisoned not more than one year or both.

**Section 82-14. Guardianship of the person.** Notwithstanding any law to the contrary, the director of health shall be the guardian of the person of every person committed to and received at Waimano training school and hospital for the period such ward remains under his jurisdiction. He shall have all the powers and duties of a natural guardian of such ward and in addition thereto all the powers and duties of a guardian of the person duly appointed by a court of competent jurisdiction; provided, that he shall not

be liable in damages for any tortious act committed by such ward. In case any person committed to Waimano training school and hospital has a guardian of the person already appointed by any court of competent jurisdiction, such guardianship of the person shall be terminated or suspended during the period such ward remains under the jurisdiction of the director of health as a ward of Waimano training school and hospital and such guardian before entering into any agreement with the director concerning such admission without commitment, or within ten days after such admission, shall report such fact to the court that appointed such guardian which shall enter an order in conformity with this section.

**Section 82-15. Voluntary admission.** Upon the written application of a parent or guardian and upon a finding of fact of a hardship or emergency case by the director of health, voluntary admission of minors for a period of evaluation and observation not to exceed three months prior to instituting commitment proceedings may be permitted by the director. The parent or guardian shall pay such sums as the director may order.

**Section 82-16. Earnings of patients.** Where an inmate (hereinafter referred to as a 'patient') of the Waimano training school and hospital is conditionally discharged, the director shall arrange to receive, and shall collect, at least one-half of the patient's net earnings which shall be deposited by the director in a bank in trust for the patient; provided, that if such patient shall, with the prior written approval of the director, voluntarily contribute a portion of his earnings to a purpose for his own best interest or his relatives' welfare then the director may arrange to receive and collect only one-half of the patient's net earnings less the amount of such contributions. The term 'net earnings' means the total amount received less necessary living expenses. The necessary living expenses shall be determined by the director in each case.

When the director decides that an emergency exists and that it is for the patient's best interests, or his relatives' welfare, he may, at the patient's request, withdraw sums from any amounts so deposited in trust and permit the patient to expend them subject to such directions as he may impose. Also, when any patient incurs any lawful obligation which the director deems unusual and which he may decide should immediately be paid, he may make withdrawals and discharge the obligation.

**Section 82-17. Compensation for labor by wards of Waimano training school and hospital.** Any wards at Waimano training school and hospital employed by the State at Waimano training school and hospital may be allowed such compensation for his work at Waimano training school and hospital as shall be determined by the director. No such ward shall, because of his work at Waimano training school and hospital, be a member of the employees' retirement system of the State of Hawaii or a member of the civil service of the State or subject to classification by the department of civil service of the State."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved July 10, 1961.) **S.B. 760.**

## ACT 177

An Act Relating to the Definition of the Blind.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 109-5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Section 109-5. Blind, defined.** The term 'blind' as used in this chapter, whether used as an adjective or noun, means blind or visually handicapped."

SECTION 2. The first sentence of section 117-15 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by deleting the words and commas "who have vision in the better eye, with corrective glasses, of less than twenty-two hundredths or a disqualifying field defect sufficient to incapacitate them from self support" and by substituting therefor the words and commas "who are blind, as defined in section 121-1,".

SECTION 3. This Act shall take effect upon its approval.

(Approved July 10, 1961.) **S.B. 1025.**

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## ACT 178

A Bill for an Act Providing for the Preparation of the Establishment and Maintenance of a State Ferry System and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Purpose. The purpose of this Act is to provide for the initial preparation of the establishment and maintenance of a State ferry system to promote inter-island travel and transportation of goods to aid the economic development of the State.

SECTION 2. Appropriation. There is hereby appropriated out of the general funds of the State the sum of \$75,000, or so much thereof as may be necessary, to the department of transportation for the following purposes:

(a) To contract for the services of a consultant or consultants to analyze the data contained in the various transportation studies already made, and to collect such additional information as may become available on hydrofoils and together with the study entitled "The Market for a New Inter-Island Ferry System," project volume, schedules and costs to be submitted to the legislature and from which they may recommend a program either for state or private operation of an inter-island fast freight and passenger system.

(b) To determine the types of ferries, both air and water including hydrofoil, which are available or will be available for a state ferry system and the cost of purchasing, leasing, or leasing with an option to purchase the different types of ferries.

(c) To prepare bid forms and evaluate proposals for the maintenance and operation of the different types of ferries by private entrepreneurs.

SECTION 3. Progress report. The director of transportation shall prepare a progress report in writing of the nature and extent of his activities along with recommendations under the provisions of this Act. Such report

shall be delivered to each member of the legislature at least thirty days before the 1962 regular session convenes.

SECTION 4. Effective date. This Act shall take effect upon its approval.  
(Approved July 10, 1961.) **H.B. 9.**

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**ACT 179**

A Bill for an Act Relating to Discharge of Mechanics' and Materialmen's Liens by Posting a Bond.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 193 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section 193-43.1 to read as follows:

**"Sec. 193-43.1.** Any mechanics' and materialmen's lien which covers an entire subdivision of ten or more lots may be discharged at any time by the owner, lessee, principal contractor, or intermediate subcontractor filing with the clerk of the circuit court of the county in which the property is located or with the assistant registrar of the land court (if registered land is affected), cash in twice the amount of the sum for which the claim for the lien is filed, conditioned for the payment of any sum for which the claimant may obtain judgment upon his claim."

SECTION 2. This Act shall take effect upon its approval.  
(Approved July 10, 1961.) **H.B. 1055.**

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**ACT 180**

A Bill for an Act to Provide for the Creation of Horizontal Property Regimes and Regulations Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. This Act shall be known as the "Horizontal Property Act."

SECTION 2. There is hereby added to the Revised Laws of Hawaii 1955 a new chapter, which chapter and its sections shall be appropriately numbered by the Revisor of Statutes and to read as follows:

**"CHAPTER ..... , HORIZONTAL PROPERTY REGIMES.**

**PART I.**

Section 1. This chapter shall be known as the 'Horizontal Property Regime'.

Section 2. **Definitions.** Unless it is plainly evident from the context that a different meaning is intended, as used herein:

(a) 'Apartment' means an enclosed room occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be destined for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare;



(b) 'Commission' means the real estate license commission of the state department of treasury and regulation;

(c) 'Condominium' means the ownership of single units in a multi-unit structure with common elements;

(d) 'Condominium project' means a real estate condominium project; a plan or project whereby six or more apartments, rooms, office spaces, or other units in existing or proposed building(s) or structure(s) are offered or proposed to be offered for sale;

(e) 'Co-owner' means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment within the building;

(f) 'Council of co-owners' means all the co-owners as defined in subsection (e) of this section;

(g) 'Developer' means a person who undertakes to develop a real estate condominium project;

(h) 'General common elements' means and includes:

(1) The land whether leased or in fee simple, on which the building stands;

(2) The foundations, main walls, roofs, halls, lobbies, stairways, and entrance and exit or communication ways;

(3) The basements, flat roofs, yards, and gardens, except as otherwise provided or stipulated;

(4) The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

(5) The compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, and the like;

(6) The elevators, garbage incinerators and, in general all devices or installations existing for common use; and

(7) All other elements of the building rationally of common use or necessary to its existence, upkeep and safety;

(i) 'Limited common elements' means and includes those common elements which are agreed upon by all the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like;

(j) 'Majority of co-owners' means fifty-one per cent of the co-owners;

(k) 'Master deed' or 'master lease' means the deed or lease recording the property of the horizontal property regime; *as provided in the*

(l) 'Person' means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof;

(m) 'Property' means and includes the land whether leasehold or in fee simple, the building, all improvements and structures thereon, and all easements, rights and appurtenances belonging thereto;

(n) 'To record' means to record in accordance with the provisions of chapter 343, or to register in accordance with the provisions of chapter 342;

(o) All pronouns used herein include the male, female and neuter genders and include the singular or plural numbers, as the case may be.

**Section 3. Horizontal property regimes.** Whenever a developer, a sole owner or the co-owners of a building expressly declare, through the recordation of a master deed or lease, which shall set forth the particulars enum-

erated by section 7, their desire to submit their property to the regime established by this chapter, there shall thereby be established a horizontal property regime.

**Section 4. Status of apartments within an horizontal property regime.** Once the property is submitted to the horizontal property regime, an apartment in the building may be individually conveyed and encumbered and may be the subject of ownership, possession or sale and of all types of juridic acts *inter vivos* or *mortis causa*, as if it were sole and entirely independent of the other apartments in the building of which they form a part, and the corresponding individual titles and interests shall be recordable.

**Section 5. Joint or common ownership of an apartment.** Any apartment may be jointly or commonly owned by more than one person.

**Section 6. Ownership of apartments, of common elements.** An apartment owner shall have an exclusive right to his apartment and shall have a common right to a share, with other co-owners, in the common elements of the property.

## PART II

### THE MASTER DEED OR LEASE OF THE HORIZONTAL PROPERTY REGIME; RECORDATION.

**Section 7. Recordation.** The bureau of conveyances and the land court shall immediately set up the mechanics and method by which recordation or registration of a master deed or lease and the individual apartments may be made. Provisions shall be made for the recordation of the individual apartments on subsequent re-sales, mortgages and other encumbrances, as is done with all other real estate recordations. The master deed or lease to which section 3 refers shall express the following particulars:

(a) The description of the land, whether leased or in fee simple, and the building, expressing their respective areas;

(b) The general description and number of each apartment, expressing its respective areas;

(b) The general description and number of each apartment, expressing its area, location and any other data necessary for its identification; and

(c) The description of the general common elements of the building.

**Section 8. Apartment deeds.** The deed of each individual apartment shall express the particulars prescribed under letters (a) and (b) of section 7 relative to the apartment concerned and shall also express all encumbrances thereon.

**Section 9. Waiver of the regime.** All the co-owners or the sole owner of a building constituted into an horizontal property regime may waive this regime and request the registrar of the bureau of conveyances or of the land court to re-group or merge the records of the filial estates with the principal property, provided, that the filial estates are unencumbered, or if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors.

**Section 10. Merger no bar to re-constitution.** The merger provided for in the preceding section shall in no way bar the subsequent constitution of the property into another horizontal property regime whenever so desired and upon observance of the provisions of this chapter.

### PART III ADMINISTRATION.

Section 11. **Horizontal property regime by-laws.** The administration of every building constituted into an horizontal property regime shall be governed by by-laws approved and adopted by the council of co-owners. The by-laws may be amended from time to time by the council.

Section 12. **Record of receipts and expenditures.** The administrator, or the board of administration, or the person appointed by the by-laws of the regime, shall keep a book with a detailed account of the receipts and expenditures affecting the building and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or in behalf of the regime. Both the book and vouchers accrediting the entries made thereupon shall be available for examination by all the co-owners at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good accounting procedures and be audited at least once a year by an auditor outside of the organization.

Section 13. **Pro-rata contribution toward expenses.** All co-owners are bound to contribute pro-rata toward the expenses of administration and of maintenance and repair of the general common elements, and, in the proper case, of the limited common elements of the building, and toward any other expense lawfully agreed upon by the council of co-owners.

No co-owner shall be exempted from contributing toward such expenses by waiver or non-use of the use or enjoyment of the common elements, both general and limited, or by abandonment of the apartment belonging to him.

Section 14. **Property taxes.** The laws relating to home exemptions from state property taxes shall be applicable to the individual apartments, which shall have the benefit of home exemption in those cases where the owner of a simple family dwelling would qualify. Property taxes assessed by the State shall be assessed on and collected on the individual apartments and not on the building as a whole.

Section 15. **Priority of liens.** Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner for his pro-rata share in the expenses to which section 13 refers shall first be paid out of the sales price or by the acquirer in preference over any other assessments or charges of whatever nature except the following:

- (a) Assessments, liens, and charges in favor of the State for taxes past due and unpaid on the apartment; and
- (b) Payments due under mortgage instruments duly recorded.

### PART IV REGULATION BY COMMISSION.

Section 16. **Notification of Intention.** Prior to the time when a condominium project is to be offered for sale in this State, the developer shall notify the commission in writing of his intention to sell such offerings.

Section 17. **Questionnaire and Filing Fee.** The notice of intention shall be accompanied by a fee of \$50 and by a verified copy of a questionnaire properly filled in. The questionnaire will be in such form and content as will require full disclosure of all material facts reasonably available.

**Section 18. Inspection.** After appropriate notification has been made pursuant to sections 16 and 17, an inspection of the condominium project may be made by the commission.

**Section 19. Inspection Expenses.** When an inspection is to be made of projects, the notice of intention shall be accompanied by the filing fee, together with an amount estimated by the commission to be necessary to cover the actual expenses of such inspection, not to exceed twenty dollars (\$20) a day for each day consumed in the examination of the project plus reasonable first-class transportation expenses.

**Section 20. Waiver of Inspection.** The commission may waive initial inspection when in its opinion, a preliminary or final public report can be substantially drafted and issued from the contents of the questionnaire and other or subsequent inquiries. Failure of the commission to notify the developer of its intent to inspect his project within ten days after notification of intention is properly filed pursuant to sections 16 and 17 will be construed a waiver of such inspection.

**Section 21. Public Report.** When the commission makes an examination of any project, it shall make a public report of its findings, which shall contain all material facts reasonably available. A public report shall neither be construed to be an approval nor disapproval of a project. No unit in a condominium project shall be offered for sale until the commission shall have issued a final or substitute public report thereon, nor shall reservations to purchase be taken until the commission has issued a preliminary, final or substitute public report.

**Section 22. Preliminary Public Report.** A preliminary public report may be issued by the commission upon receipt of a notice of intention filing which is complete except for some particular requirement, or requirements, which is, or are, at the time not fulfilled, but which may reasonably be expected to be completed.

**Section 23. Copy of Public Report to be Given to Prospective Purchaser.** The developer shall not enter into a binding contract or agreement for the sale of any unit in a condominium project unit

(a) A true copy of the commission's final or substitute public report thereon with all supplementary public reports, if any has been issued, has been given to the prospective purchaser,

(b) The latter has been given an opportunity to read same, and,

(c) His receipt taken therefor.

Receipts taken for any public report shall be kept on file in possession of the developer subject to inspection at a reasonable time by the commission or its deputies, for a period of three years from the date the receipt was taken.

**Section 24. Supplementary Public Report.** If, after a final or substitute public report has been issued, the commission shall deem it necessary to conduct further inquiries or investigations in order to protect the general public in its real estate transactions, the commission may issue a supplementary public report describing the findings thereof. Upon the issuance of a supplementary public report, it shall be the duty of the developer to issue a true copy thereof to all purchasers.

**Section 25. True Copies of Public Report.** The true copies of the commission's public report shall be an exact reproduction of those prepared by the commission.

**Section 26. Notice of Change.** It is unlawful for the developer of the project, after it is submitted to the commission, to materially change the set-up or value or use of such offering without first notifying the commission in writing of such intended change and substantially notifying all purchasers and prospective purchasers of such change.

**Section 27. Request For Hearing By Developer.** When a final, preliminary or substitute public report is not issued within a reasonable time after notice of intention is properly filed pursuant to sections 16 and 17, or if the developer is materially grieved by the form or content of a public report, the developer may, in writing, request and shall be given a hearing by the commission within a reasonable time after receipt of request.

**Section 28. Penalties For Violations of Certain Provisions.** Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any project offered for sale or lease, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any said project contains any written statement that is false or fraudulent, issues, circulates, publishes or distributes the same, or shall cause the same to be issued, circulated, published or distributed, or who, in any other respect, violates or fails to comply with any of the provisions set forth in Part IV, or who in any other respect violates or fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement of the commission under Part IV, is guilty of a misdemeanor, and shall be punished by a fine not exceeding \$1,000 or by imprisonment for a term not exceeding one year or by both such fine and imprisonment.

**Section 29. Investigatory Powers.** If the commission has reason to believe that a developer is violating any provision set forth in Part IV, or the rules and regulations of the commission made pursuant thereto, the commission may investigate the developer's project and examine the books, accounts, records and files used in the project of the developer. For the purposes of examination, the developer is required to keep and maintain record of all sales transactions and of the funds received by him pursuant thereto, and to make them accessible to the commission upon reasonable notice and demand.

**Section 30. Power to enjoin.** Whenever the commission believes from satisfactory evidence that any person has violated any of the provisions of Part IV or the rules and regulations of the commission made pursuant thereto, it may conduct an investigation on such matter, and bring an action in the name of the people of the State of Hawaii in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof.

**Section 31. Deposit of fees.** All fees collected under this part shall be remitted by the commission to the treasurer of this State, and shall be placed to the credit of the special fund of the real estate commission.

**Section 32. Chapter not exclusive.** The provisions of this chapter shall be in addition and supplemental to all other provisions of the Revised Laws of Hawaii 1955, as amended, provided that wherever the application of the provisions of this chapter conflict with the application of such other provisions, this chapter shall prevail.

Section 33. **Supplemental regulations governing an horizontal property regime.** Whenever they deem it proper, the boards of supervisors of the various counties or the city council of the city and county of Honolulu may adopt supplemental rules and regulations governing a horizontal property regime established under this chapter in order to implement this program.

Section 34. **Severability.** If any provision of this chapter, or any section, sentence, clause, phrase or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of the chapter and of the application of any such provision, section, sentence, clause, phrase or word in other circumstances shall not be affected thereby."

SECTION 3. Effective date. This Act shall take effect upon its approval.

(Approved July 10, 1961.) **H.B. 1142.**

## ACT 181

An Act Relating to the Employees' Retirement System, and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6-20 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

a. By amending the definition of the term "average final compensation" by adding thereto at the end thereof the following:  
"In computing the compensation of a member as a justice of the supreme court or a judge of a circuit court of the territory, the compensation payable by the United States, as well as by the territory, shall be included."

b. By amending the definition of the term "employee" by inserting the word "other" before the words "elective officers."

c. By inserting therein, after the definition of the term "fireman," the following:

"'Judge': A justice of the supreme court or a judge of the circuit court of this State after the admission of this State into the union."

SECTION 2. Section 6-25 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-25. Persons ineligible for membership; optional membership.** The board may deny the right to become members to any class of part time employees, or it may, in its discretion, make optional with persons in such class their individual entrance into membership; provided, that no officer or employee entering service after January 1, 1928, who is entitled to become a member of any pension fund under the provisions of part III, shall be entitled to become a member of the system. Elective officers shall be eligible for membership, and their individual entrance into membership shall be at their option."

SECTION 3. Section 6-35 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-35. Statement filed after July 1, 1947.** Notwithstanding the foregoing, any member may file with the board, on a form approved by the board, a statement of all service as an employee or other service paid for by the State or county rendered prior to the date of his last becoming a member

which is not otherwise creditable to him, for which he claimed prior service credit, and also a statement of such service for which he claims membership service credit and for which he agrees to have additional deductions made from his compensation or to make a lump-sum payment as hereinafter described.

As soon as practicable after the filing of any such statement, the board shall verify the service therein claimed and determine the membership service credit allowable therefor. For a period equal to the period for which membership service credit is allowable, the deductions from the member's compensation shall be twice the proportion provided for in section 6-82, and such deductions shall be paid into the annuity savings fund, and shall be credited to the individual account of the member and become part of his accumulated contributions, provided, that the member may, at his option, pay in a lump-sum the contributions payable on account of the period for which membership service is allowable. Membership service credit in addition to any other service creditable to the member shall be allowed the member for the period for which such double deductions or lump-sum contributions have been made."

SECTION 4. Section 6-42 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding thereto, at the end thereof, the following paragraphs:

"Notwithstanding the foregoing, the service retirement allowance of a member who has had ten years of service credit, including service as a judge or an elective officer rendered after May 27, 1961, shall be as follows:

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

(b) A pension, in addition to his annuity, which shall consist of (i) an amount equal to one one-hundred-fortieth of his average final compensation multiplied by the number of years of his membership service for service other than as a judge or an elective officer rendered after the admission of this State into the union, and (ii) 3.4523 per cent of his average final compensation for each year of creditable service as a judge or an elective officer rendered after the admission of this State into the union; except that if the member is a class A member, such pension payable subsequent to the attainment of age sixty-five shall be reduced as provided in the first paragraph of this section; and

(c) If he has a prior service certificate, an additional pension which shall be equal to one-seventieth of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate.

The service retirement allowance shall in no case exceed seventy-five per cent of the average final compensation. If the allowance, computed in accordance with the foregoing paragraphs, exceeds such limit, it shall be reduced by first reducing the annuity, and such portion of the accumulated contributions as may be in excess of the requirements of the reduced annuity shall be returned to the member."

SECTION 5. Section 6-45 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding the following paragraph at the end thereof:

"Notwithstanding the foregoing, the disability retirement allowance of a member who has credit for service as a judge or an elective officer rendered after May 27, 1961 shall be the service retirement allowance if he has attained

the age of sixty years; if not, it shall be his annuity plus a pension of ninety per cent of the pension computed on the basis of his average final compensation which he would be entitled to if he continued in service until he attained the age of sixty years, except that if the member is a class A member, such pension payable subsequent to the time when the member becomes eligible for social security benefits shall be reduced as provided in the foregoing paragraph, plus an additional pension, if he has a prior service certificate, which shall be equal to ninety per cent of the additional pension computed on the basis of his average final compensation which he would be entitled to if he continued in service until he attained the age of sixty years."

SECTION 6. Section 6-82 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by substituting a "semi-colon" for the "period" at the end of the first paragraph thereof and inserting after the "semi-colon" the following :

"and in the case of a judge or an elective officer, the proportion of compensation shall be computed as though he were a member entitled to a pension to the extent provided in the first sentence of section 6-42."

SECTION 7. Section 6-24.5 of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 8. Any provision of chapter 6 of the Revised Laws of Hawaii 1955, as amended, which is in conflict or inconsistent with the provisions of this Act is hereby superseded to the extent of such conflict or inconsistency.

SECTION 9. There is hereby appropriated out of the general revenues of the state the sum of \$90,000 for the purposes of this Act. If the amount of the liability on account of the provisions of this Act exceeds the amount herein appropriated, the deficiency shall be included in the request for appropriations for the employees' retirement system for the next fiscal period.

SECTION 10. This Act shall take effect upon its approval.

(Approved July 11, 1961.) **S.B. 73.**

## ACT 182

An Act Relating to the Department of Education and Providing for the Election of Local Advisory School Councils.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. One of the purposes of this Act is to implement the state constitution by providing for the election of local school advisory councils beginning in 1962. However, for the immediate organization of the board of education, this Act provides that within 20 days of the approval of this Act members of the local school advisory councils shall be appointed by the chairman of the board of supervisors or the mayor of each respective county and city and county with the approval of the respective board of supervisors or city council. These members shall serve until the first Monday of December, 1962.

It is also the purpose of this Act to conform the Revised Laws of Hawaii 1955, as amended, to the Hawaii State Government Reorganization Act of 1959.



SECTION 2. The title to chapter 37, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

**"CHAPTER 37  
DEPARTMENT OF EDUCATION"**

SECTION 3. Amend chapter 37, Revised Laws of Hawaii 1955, as amended, as follows:

(a) Sections 37-1 to 37-5 are hereby repealed.

(b) Insert Sections 37-1 to 37-5.6 to read as follows:

**"Sec. 37.1. Definitions.** As used in chapters 37 to 42:

'Department' means the department of education of the State.

'Board' means the board of education.

'Member' means a member of the board of education.

'Superintendent' means the superintendent of public instruction.

'Councilor' means a member of a local school advisory council.

**Sec. 37-2. Department of education; board of education; superintendent of public instruction.** There shall be a principal executive department to be known as the department of education which shall be headed by an executive board to be known as the board of education. The board of education shall have power in accordance with law to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of public instruction. The superintendent of public instruction shall be appointed and may be removed by a majority vote of the members of the board appointed by the governor, and shall be an ex officio voting member of the board.

**Sec. 37-3. Board members; appointment; tenure.** The board of education shall consist of eleven members, one of whom, the superintendent shall be an ex officio voting member. Ten members of the board shall be nominated and, by and with the advice and consent of the senate, appointed by the governor from panels submitted by the local school advisory councils. The governor shall appoint the county representative member from the panel submitted by the particular county. The board shall be composed of two appointees who are qualified voters of the county of Hawaii (one each from the first and second senatorial districts), one appointee who is a qualified voter of the county of Maui, one appointee who is a qualified voter of Kauai, and 6 appointees who are qualified voters of the city and county of Honolulu (3 each from the fourth and fifth senatorial districts). Initially, five of the numbers shall be appointed for a term of two years, and five shall be appointed for a term of four years; provided that all such terms shall expire at noon on the first Monday in December of the year of their termination; upon the expiration of the terms of the members, their successors shall be appointed for a term of four years. In case of a vacancy occurring through any cause other than the expiration of the term of office, such vacancy shall be filled by appointment of a succeeding member for the remainder of the term for which his predecessor was appointed.

**Sec. 37-3.5. Who eligible; expenses.** Each member appointed by the governor shall have been a resident of the State or Territory for at least five years next preceding his appointment. Only members of a local school advisory council and such other additional persons nominated by the council as set forth in Section 37-4 shall be eligible for membership on the board.

No person shall be appointed to more than two consecutive terms as a member of the board, but he shall not be limited to two terms.

All members shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge and responsibilities required by law.

**Sec. 37-3.6. Organization; quorum; meetings.** The board shall appoint any one of its members, except the superintendent, as chairman. Section 7-26 shall apply. At least one meeting shall be held in every other month of the year. Other meetings shall be held when deemed necessary for the transaction of the department's business on call by the chairman or by a quorum. Members shall be notified in writing at least seven days prior to the date set for such meeting. The chairman shall preside at the meetings but the members shall choose one of their members to act in his stead in case of his absence or disability. Six members at any board meeting shall constitute a quorum.

**Sec. 37-4. Local school advisory councils; duties.** A local school advisory council shall be established in each county. Whenever a vacancy occurs on the board of education the council of the county concerned shall submit to the governor a panel of nominees composed of its own membership, plus such other persons as hereinafter enumerated, for appointment to the board within 20 days after the date on which the vacancy occurs. In addition to its own membership, a council shall nominate additional persons as follows: the council of the county of Kauai shall nominate one other resident of the county of Kauai; the council of the county of Maui shall nominate two other residents of the county of Maui; the council of the county of Hawaii shall nominate two others, one of whom shall be a resident of the first senatorial district and the other a resident of the second senatorial district; the council of the city and county of Honolulu shall nominate five others, two of whom shall be residents of the fourth senatorial district, two residents of the fifth senatorial district, and one resident of the city and county of Honolulu, at-large. The additional persons nominated by any council shall not thereby be deemed to be a member of the council. Each council shall serve in an advisory capacity to the board of education and to such members of the board who represent the council's county.

**Sec. 37-5. Size of councils; selection, tenure.** The local school advisory council for the county of Hawaii shall consist of seven members. The voters of the first, third, fourth, and fifth representative districts shall each elect one member, respectively. The voters of the second representative district shall elect three members.

The local school advisory council for the city and county of Honolulu shall consist of fourteen members (seven each from the fourth and fifth senatorial districts).

The local school advisory council for the county of Maui shall consist of six members. The voters of the islands of Lanai and Molokai shall elect one member. The voters of the island of Maui shall elect five members.

The local school advisory council for the county of Kauai shall consist of four members.

Each member of each council shall be nominated by petition of at least twenty-five qualified voters of the district, island, or county from which the member is to be elected. The members shall be elected from such districts, island or county at either the primary or general election. Candidates receiv-

ing a majority of the total number of valid ballots cast in the primary election in the district, island, or county for the council shall be elected outright, provided, that if the number of candidates receiving a majority of the votes cast in the primary exceed the number of positions available, then only those receiving the highest number of votes to fill the available positions shall be elected outright. The remaining positions, if any, which are not filled during the primary election, shall be filled at the general election. At the general election, the names of the candidates not elected at the primary, receiving the highest number of votes shall appear on the ballots, provided, that the number of candidates appearing on the ballot for the general election shall not exceed twice the number of positions remaining to be filled. Ballots in the primary and general elections shall be separate. All candidates shall run without designation of political affiliation. All other provisions of the election laws not inconsistent with these provisions shall apply.

Of the councilors first elected for the county of Hawaii, some shall serve for four years and some shall serve for two years as follows:

(a) If the number of councilors elected outright is less than a majority of the total membership to which that council is entitled, then all those elected outright and those receiving the highest number of votes at the general election, enough to constitute a majority for that council shall serve for four years and the remaining members shall serve for two years.

(b) If the number of councilors elected outright is more than a majority of the total membership to which the council is entitled, then those elected outright who have the highest number of votes to constitute a majority for that council shall serve for four years and the remainder shall serve for two years.

(c) If the number of councilors elected outright is equal to a majority of the total membership to which the council is entitled, then they shall serve for four years and the remainder shall serve for two years.

(d) If none of the candidates are elected outright at the primary election, then a majority of those elected who received the highest number of votes shall serve for a term of four years and the remainder shall serve for a term of two years.

Of the councilors first elected for the counties of Kauai and Maui and the city and county of Honolulu, the same rules shall apply as for the county of Hawaii but as applied to half of the total membership of the council rather than to a majority of such membership.

Upon the expiration of the terms of the first councilors, their successors shall hold office for a term of four years. In case a vacancy occurs through the appointment of a council member to a full term on the board of education, the vacancy shall be filled by the person who received the highest number of votes among the losing candidates at the last general election, or, if there be none, then at the last primary election, held for council members in the district, island or county which the vacated seat on the council represents. If no person is eligible to fill the vacancy, the vacancy shall be filled by appointment by the chairman of the board of supervisors or the mayor of the county, by and with the advice and consent of the board of supervisors or the city council. In case a vacancy occurs through the appointment of a council member to fill an unexpired term on the board of education, or for any other cause other than the expiration of the term of office, such a vacancy shall be filled by appointment by the chairman of the board

of supervisors or the mayor of the county, by and with the advice and consent of the board of supervisors or the city council.

**Sec. 37-5.5. Who eligible.** Each candidate for the council shall be a qualified voter of the county and shall have been a resident of the State or Territory for at least five years next preceding his nomination.

**Sec. 37-5.6. Organization; quorum; meetings.** The council shall elect its own chairman for a two-year term. He shall not succeed himself, but he shall not be limited to one term. Each council may elect other officers that it may feel necessary for carrying out its functions.

Section 7-26 shall apply. Meetings shall be called and held, at the call of the chairman or a quorum, as often as may be necessary to carry out the foregoing functions. The chairman or the necessary quorum for meetings not called by the chair shall notify the other councilors in writing at least five days prior to the date set for any meeting.

The chairman shall preside at all meetings but the councilors shall choose one of their members to act in his stead in case of his absence or disability."

(c) Section 37-6. is hereby amended to read as follows:

**"Sec. 37-6. Duties of superintendent.** Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the pre-school, primary and secondary school levels, post high school vocational rehabilitation (until this function can be transferred to the department of social services without jeopardizing federal funds), health education and instruction, and such other programs as may be established by law.

Except as otherwise provided, the superintendent shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts or other documents of the department. He shall, at such time as may be prescribed by the board, present to the board full annual reports of the principal transactions within the department during the last completed year, which reports together with such recommendations as the board may think proper, shall be presented to the governor and the legislature."

(d) Section 37-15.5 is hereby amended by deleting therefrom the words "commissioners" and by substituting therefor the word "board".

(e) Section 37-16 is hereby amended by deleting the words "commissioners of public instruction", "commissioners" and "bureau of public health statistics" and by substituting therefor the words "board of education", "board" and "department of health", respectively.

(f) Section 37-17 is hereby amended by deleting the words "treasurer", "commissioners of public instruction" and "commissioners" and by substituting therefor the words "director of finance", "board of education" and "board", respectively.

(g) Section 37-18 is hereby amended by deleting the words "department of public instruction" and "treasurer" and by substituting therefor the words "department of education" and "director of finance", respectively.

(h) Section 37-19 is hereby amended by deleting therefrom the words "department of public welfare" and by substituting therefor the words "department of social services".

(i) Sections 37-19.1, 37-19.2, 37-19.3 are hereby amended by deleting the words "division of vocational education" and "department of public instruction" and by substituting therefor the words "program of vocational education" and "department of education", respectively.

(j) Section 37-20 is hereby amended to read as follows:

**"Sec. 37-20. Dental hygiene instruction.** The department shall provide preventive dental hygiene instruction for the children of the State of school age in the public schools."

(k) Section 37-21 is hereby amended by deleting the word "commissioners" and by substituting therefor the word "board".

(l) Section 37-21.5 is hereby amended by deleting therefrom the words "department of public instruction" and by substituting therefor the words "department of education".

(m) Section 37-22 is hereby amended to read as follows:

**"Sec. 37-22. Guidance services program.** The department shall establish a guidance services program and engage staff to conduct the work at such salaries as may be established by the board with the approval of the governor and within the limits of the budget of the department as provided by the general appropriation act."

(n) Sections 37-23 and 37-25 are hereby amended by deleting therefrom the words "commissioners of public instruction" and "department of public instruction" and by substituting therefor the words "board" and "department", respectively.

SECTION 4. Within 20 days of the date of approval of this Act, each member of each local school advisory council shall be appointed by the chairman of the board of supervisors or the mayor of each respective county, by and with the advice and consent of the respective boards of supervisors or city council, or, in default thereof, by the governor. All councilors shall take office on the first Monday after their appointment and shall serve until the first Monday in December, 1962. Notwithstanding any section herein to the contrary, within 20 days after the councilors appointed pursuant to this section take office, they shall submit panels of nominees for positions on the board of education, which nominees shall not be subject to the requirement of the second sentence of the first paragraph of section 37-3.5.

SECTION 5. (a) Sections 37-5 and 37-5.5 of section 3 of this Act shall apply to the first primary and general elections to be held in 1962.

(b) The ballot for the election of the first councilors, if elected in the regular election, shall clearly indicate that councilors who are elected outright at the primary and who receive the highest number of votes in the general, as indicated in section 37-5 of section 3(b) of this Act, shall serve for four years while the remaining number of councilors shall serve for two years.

SECTION 6. Any appropriation for expenses of elections shall be expendable at any time for all the expenses of elections conducted under section 3(b) of this Act, including the necessary preparations therefor, as well as for purposes otherwise authorized. Such appropriations may be augmented by allotments made by the governor from the contingent fund for expenditure by the governor of Hawaii for the expenses of the elections conducted under section 3(b) of this Act.

SECTION 7. Section 38-38 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the entire paragraph thereof and substituting therefor the following paragraph:

"The board of education, with the advice of the personnel classification board of the State, shall set job and salary classification for, and classify

all professional officers and employees in the department, including deputy superintendents of public instruction, district superintendents, vocational supervisors, and other professional officers and employees in the department, who are not covered by the schedule in section 38-31, which shall be subject to approval by the legislature. The board of education shall adopt fair and reasonable procedures and rules for the rating of the efficiency of such officers and employees."

SECTION 8. This Act shall take effect upon its approval.

(Approved July 11, 1961.) **S.B. 9.**

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### ACT 183

#### An Act Making an Appropriation to the Hawaiian Home-Loan Fund

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the State, not otherwise appropriated, the sum of [~~\$250,000~~]<sup>\$1,\*</sup> or so much thereof as may be necessary, to the department of Hawaiian Home Lands to be deposited into the Hawaiian Home-Loan Fund which shall be made available only for loans to lessees as provided in the Hawaiian Homes Commission Act, 1920, as amended, and shall not be expended for any other purpose. This appropriation is in addition to any other moneys which the department of Hawaiian Home Lands is entitled to receive under the provisions of the Hawaiian Homes Commission Act, 1920, as amended.

SECTION 2. The first sentence of section 213(c) of the Hawaiian Homes Commission Act of 1920, is hereby amended to read as follows:

"Twenty-five per centum of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund."

SECTION 3. This Act shall take effect upon its approval.

(Approved July 11, 1961.) **S.B. 592.**

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\* Appropriation reduced to \$1.00—W. Q.

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### ACT 184

#### A Bill for an Act Relating to the Disposition and Accounting for Revenues of the State, Amending the Revised Laws of Hawaii 1955, as Amended, to Provide for the Disposition of Certain Special Funds and Making Appropriations.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. It is the purpose of this Act to eliminate certain special funds the revenues previously paid into which are henceforth to be credited to the general fund of the State. In order to provide for continuity of services, this Act makes appropriations to the agencies affected.

SECTION 2. Disposition of income relating to the contractors license board. Chapter 166A of the Revised Laws of Hawaii 1955, as amended, is hereby amended in the following manner:

(a) Section 166A-14(c) is hereby repealed.

(b) Section 166A-19 is hereby amended to read as follows :

**"Sec. 166A-19. Disposition of fees, refunds.** (a) All fees received by the board under this chapter shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund.

(b) The board may request the treasurer to have any fee erroneously paid to it under this chapter refunded when the board deems it just and equitable."

SECTION 3. Disposition of fees from quarantine of cats and dogs. Section 20-27 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows :

**"Sec. 20-27. Disposition of fees from quarantine of cats and dogs.** All fees collected by the board with respect to the quarantine of cats and dogs shall be deposited with the director of the budget to the credit of the general fund."

SECTION 4. Disposition of University of Hawaii income. Section 44-7 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows :

**"Sec. 44-7. Appropriations; accounts; reports.** Moneys appropriated by the legislature for the university shall be payable by the director of the budget, upon vouchers approved by the board of regents or by any officer elected or appointed by the board under section 44-3 and authorized by the board to approve such vouchers on behalf of the board. All moneys received by or in behalf of the board or the university shall be deposited with the director of the budget, except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received. Income from fees for tuition and similar charges against students and income derived from sale of goods or services shall be deposited to the credit of the general fund of the State; provided, however, that income from university projects, as defined and described in sections 44-60 to 44-72, may be credited to special or other funds, and provided further that the comptroller may require such separate accounts or special funds for designated revenues as he deems in the best interests of the State."

SECTION 5. Disposition of library income. Chapter 45 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new section to be numbered 45-32 and to read as follows :

**"Sec. 45-32. Disposition of fines and related income.** Income from the operation of libraries that are financially supported by the State shall be deposited with the director of the budget to the credit of the general fund; provided that moneys or properties donated for library use and patrons' deposits shall be deposited and accounted for in accordance with regulations prescribed by the comptroller."

SECTION 6. Disposition of income relating to the board of barbers.

(a) Section 58-11(e) of the Revised Laws of Hawaii 1955 is hereby amended to read as follows :

"(e) A duplicate certificate will be issued upon the filing of a statement covering the loss of a certificate of permit, verified by the oath of the appli-

cant and the submission by him of one signed photograph of himself, and the payment of a fee of \$1. Each duplicate certificate or permit shall have the word 'duplicate' stamped across the face thereof, and shall bear the same number as the certificate of permit that it was issued in lieu of. All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

(b) Section 58-13 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 58-13. Penalties.** Any person who practices barbering, operates a barber shop or acts in any capacity wherein a certificate is required, without a certificate as provided in this chapter, shall be fined not more than \$100, or imprisoned not more than six months, or both. Each and every day of violation shall be a separate offense."

SECTION 7. Disposition of income relating to the beauty culture board. Section 59-10 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(a) By amending the section heading to read:

**"Sec. 59-10. Fees; expenditures."**

(b) By amending subsection 59-10(c) to read:

"(c) All fees received by the board shall be deposited by the director of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 8. Disposition of income relating to the board of dental examiners. Sections 61-7 and 61-9 of the Revised Laws of Hawaii 1955 are hereby amended in the following manner:

(a) Section 61-7 is hereby amended to read as follows:

**"Sec. 61-7. Fees.** Every person holding a license to practice dentistry in the State shall pay to the board, on or before January 1 of each year, an annual registration fee in the sum of \$5. The failure, neglect or refusal of any duly licensed dentist or doctor of dental surgery to pay such annual fee during the time his license remains in force, shall constitute a forfeiture of his license. Such license may be restored upon written application therefor and the payment to the board of the sum of \$25. All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

(b) Section 61-9 is hereby amended by amending the second paragraph to read as follows:

"Applications for examination shall be made out and filed in writing with the secretary of the board and each such application shall be accompanied by a fee of \$25 which shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 9. Disposition of income relating to the board of massage. Section 63-17 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 63-17. Fees.** The fees for examination, certificate and other registrations as provided in this chapter, shall be paid in advance and deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."



SECTION 10. Disposition of income relating to the board of medical examiners. Section 64-5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 64-5. Fees; expenses.** No applicant shall be examined under this chapter until he has paid to the board of examiners a fee of \$50. Every person holding a license under this chapter shall re-register with the board of examiners each year, not later than January 31 and for such re-registration shall pay a fee of \$5. Failure to do so shall constitute a forfeiture of license, which may be restored only upon written application therefor and payment to the board of a fee of \$25. All such fees shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 11. Disposition of income relating to the board for the licensing of nurses. Section 67-17 of the Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows:

"All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 12. Disposition of income relating to the board of optometry. Section 68-11 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 68-11. Disposition of fees.** All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 13. Disposition of income relating to the board of dispensing opticians. Section 69-12 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 69-12. Fees.** All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 14. Disposition of income relating to the Hawaii board of osteopathic examiners. Section 70-5 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(a) By amending the section heading to read: "Sec. 70-5. Fees."

(b) By amending subsection 70-5(c) to read:

"(c) Disposition of fees. All fees collected by the board of osteopathic examiners shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 15. Disposition of income relating to the board of pharmacy. Section 71-3 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended by amending the last paragraph to read as follows:

"All fees collected shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 16. Disposition of income relating to the board of registration of embalmers, undertakers and funeral directors. Section 72-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 72-5. Disposition of fees.** All fees collected by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 17. Disposition of income relating to the board of veterinary examiners. Section 73-12 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(a) By amending the section heading to read: "Sec. 73-12. Fees; expenditures."

(b) By amending subsection 73-12(c) to read:

"(c) All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 18. Disposition of income relating to training schools. Section 80-24 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 80-24. Disposition of income.** All moneys arising from agricultural and industrial pursuits at the boys' and girls' training schools, respectively, except such moneys as, under the rules of the schools, go to the pupils earning the same, shall, upon receipt thereof, be deposited by the director of social services with the director of the budget to the credit of the general fund."

SECTION 19. Disposition of income relating to the State Hospital. Section 81-17 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**"Sec. 81-17. Disposition of proceeds of agricultural and industrial pursuits.** All moneys arising from agricultural or industrial pursuits or activities at the hospital, and all moneys arising from the sale of produce from any public lands of the State which have been duly set apart by executive order for use by the hospital or from the sale of produce of animal husbandry conducted by the hospital, upon receipt thereof, shall be deposited by the director of health with the director of the budget to the credit of the general fund."

SECTION 20. Disposition of income relating to the Waimano Home. Section 82-17 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 82-17. Disposition of proceeds of agricultural and industrial pursuits.** All moneys arising from agricultural or industrial pursuits at the home and all moneys arising from the sale of produce from any public lands of the State which have been duly set apart by executive order for use by the home, upon receipt thereof, shall be deposited by the director of health with the director of the budget to the credit of the general fund."

SECTION 21. Disposition of income relating to the State prison. Section 83-32 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 83-32. Disposition of proceeds of agricultural and industrial pursuits.** All moneys arising from agricultural or industrial pursuits or activities conducted at any state prison (which term as used in this section shall include prison camps), and all moneys arising from the sale of produce from any public lands of the State which have been duly set apart by executive order for use by any such prison or from the sale of produce of animal hus-

bandry conducted by any such prison, upon receipt thereof, shall be deposited by the director of social services with the director of the budget to the credit of the general fund."

SECTION 22. Disposition of income relating to the board of accountants. Section 164-14 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 164-14. Disposition of fees.** All fees and other moneys received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 23. Disposition of income relating to the board of private detectives. Section 165A-12 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 165A-12. Fees; appropriation.** All fees received by the board under the provision of this chapter shall be deposited by the treasurer of the department of treasury and regulation with the director of budget to the credit of the general fund."

SECTION 24. Disposition of income relating to the board of registration of professional engineers, architects and surveyors. Section 166-7 of the Revised Laws of Hawaii 1955 is hereby amended by amending the second paragraph to read as follows:

"All fees and other moneys received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 25. Disposition of income relating to the board of photography. Section 169-7 of the Revised Laws of Hawaii 1955, as amended by section 1(E) of Act 187 of the Session Laws of 1957, Regular Session, is hereby amended to read as follows:

**"Sec. 169-7. Fees.** All fees received by the board shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 26. Disposition of income relating to the real estate license commission. Section 17-10 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended as follows:

(a) By amending the section heading to read: **"Sec. 170-10. Fees; annual renewals."**

(b) By amending the fourth paragraph to read:

"All fees and other moneys collected or received under the provisions of this chapter shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 27. Disposition of income relating to license fees, collection agencies. Section 171A-29 as added to the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 171A-29. Disposition of receipts.** All fines and penalties provided for in this chapter shall be paid to the commissioner by checks payable to the State which shall be forwarded by the commissioner to the director of the budget, and these moneys, together with all license fees and any other fees received from collection agencies, shall be deposited to the credit of the general fund."

SECTION 28. Disposition of income relating to dental hygienists. Section 62-1 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by amending the second paragraph to read as follows:

"The application for examination shall be accompanied by the applicant's certificate of graduation as aforesaid, and at the time of filing the same, such applicant shall pay to the board an examination fee of \$15, which fee, together with all other fees or charges in this chapter provided, shall be deposited by the treasurer of the department of treasury and regulation with the director of the budget to the credit of the general fund."

SECTION 29. Federal grants-in-aid requirements. In the event any provisions of this Act should conflict with federal grants-in-aid requirements, the terms and provisions required by the United State shall govern in accordance with the provisions of section 12-5, Revised Laws of Hawaii 1955.

SECTION 30. Appropriations. The following sums, or so much as may be necessary in order to provide for continuing services of the agencies and programs affected by this Act, are hereby appropriated from the general fund to supplement appropriations made under the general appropriations Act for the fiscal year beginning July 1, 1961, and ending June 30, 1962:

1. DEPARTMENT OF AGRICULTURE AND CONSERVATION.....	\$ 120,739
Animal Inspection and Quarantine.....	\$120,739
2. DEPARTMENT OF EDUCATION.....	\$ 84,953
Public Library Service	
Library of Hawaii.....	\$ 72,590
Hawaii County Library.....	6,558
Maui County Free Library.....	3,966
Kauai Public Library Association, Ltd.....	1,839
3. UNIVERSITY OF HAWAII.....	\$3,414,753
4. DEPARTMENT OF HEALTH.....	\$ 14,000
Mental Retardation Institutional Care and Related Services	
—Waimano Home.....	\$ 14,000
5. DEPARTMENT OF THE TREASURY AND REGULATION.....	\$ 355,252
Board of Accountancy.....	\$ 16,181
Board of Barbers.....	7,809
Board of Beauty Culture.....	11,562
Collection Agencies Advisory.....	4,252
Contractor's License Board.....	154,056
Board of Dental Examiners.....	5,127
Board of Dispensing Opticians.....	1,278
Board of Massage.....	5,921
Medical Examiners.....	10,762
Board of Nurses.....	22,094
Board of Optometry.....	492
Board of Osteopathic Examiners.....	3,066
Board of Pharmacy.....	7,901
Board of Private Detectives and Investigators.....	1,420
Board of Registration for Professional Engineers, Architects, and Land Surveyors.....	12,764
Board of Veterinary Examiners.....	567
Real Estate Commission.....	90,000
6. DEPARTMENT OF SOCIAL SERVICES.....	\$ 195,701
State Prison.....	\$162,042
Training Schools.....	33,659

SECTION 31. Transfers. All appropriations made under section 34 of this Act shall be subject to the provisions of Act 1, Second Special Session Laws of Hawaii 1959; provided, that should any legislation be enacted during the effective term of this Act which affects the appropriations made

herein, the department of budget and review may transfer the appropriation to conform to such act.

**SECTION 32. Personnel.** Any law to the contrary notwithstanding, the personnel presently financed from funds affected by this Act shall not be adversely affected by the provisions of this Act; provided, that this section shall be effective until June 30, 1962.

**SECTION 33. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

**SECTION 34. Effective Date.** This Act shall take effect upon its approval; provided, that the comptroller shall by December 31, 1961 comply with the provisions of this Act and as the provisions of this Act are complied with in each instance, any balance in any existing fund affected shall by this Act lapse into the general fund.

(Approved July 11, 1961.) **H.B. 6**

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## ACT 185

A Bill for an Act Establishing an Economic Redevelopment Program for Depressed Areas and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Popular title.** This Act may be cited as the "Depressed Areas Redevelopment Act."

**SECTION 2. Declaration of purpose.** The Legislature declares that substantial and persistent unemployment and underemployment in any area of the State cause hardship to many individuals and their families and detract from the welfare of this State and the Nation by the waste of vital human resources and nonuse of other economic resources. The Legislature finds that continued emigration of residents of neighbor islands may have, in some respects, unfortunate economic effect on those islands; that it is in the best interests of the State to assist in rehabilitating the economy by developing, where feasible, sound, efficient industries in depressed areas; that the State should work in cooperation with the federal government in any similar program which the latter establishes by law in addition to having its own area redevelopment program.

**SECTION 3. Department responsible for program and for cooperation with federal government; duties.** (a) The department of economic development shall be the State agency charged with the responsibility of representing the State and for providing the information, plans, program, coordination and action necessary to comply with all requirements of any State or federal law on redevelopment of depressed areas and for all other purposes covered by such laws. The director of the department of economic development is hereinafter referred to as the "director".

(b) It shall be the duty of the director to compile and keep up to date a general economic development and redevelopment plan for the entire State and each County thereof, including a list, in order of priority, of all needed and desirable facilities, buildings or improvements, public and private, which

should be constructed or improved, and to compile and keep up to date State and area statistics on employment, unemployment, population, wages, home ownership and other data pertinent to economic development. For the purpose of obtaining such statistics and information the director is hereby authorized to make direct requests of any department or agency of the State and its political subdivisions, and such departments and agencies shall furnish such information direct to the director.

**SECTION 4. "Depressed area" defined; designation of.** (a) The director shall designate as a "depressed area" any County when any of the following criteria is met in such district:

- (1) Where the level of unemployment has been 7 per cent or more for a period of twelve consecutive months immediately prior to the designation; or
- (2) Where the population has declined 5 per cent or more per year for four of the five preceding calendar years; or

(b) The director shall also designate as a "depressed area", any area regardless of size which has been designated as a "redevelopment area" by the federal government pursuant to law.

**SECTION 5. Advisory council; its duties.** (a) The members of the board of economic development, as constituted by section 14A-24, Revised Laws of Hawaii 1955, as amended, and the following ex officio members: director of labor and industrial relations, director of planning, director of budget, superintendent of public instruction, and director of land and natural resources, are hereby designated as an area redevelopment council to advise and assist the director in carrying out the program provided for by this Act.

(b) The council shall advise the director and the governor on the best methods for carrying out the provisions of this Act and to secure the co-operation of all the departments of the State and agencies of the federal government. The director shall not declare an area to be a "depressed area" for the reasons set forth in subsection (a) of section 4 of this Act without prior consultation with the area redevelopment council.

**SECTION 6. Aid to depressed area; appropriate projects; aid in conjunction with federal funds.** (a) Upon a declaration that any area within the State is a "depressed area", the director is authorized to make loans as hereinafter provided either as a total State project, or in participation with projects of the federal government, the State or its political subdivisions, or any private lender as follows:

(1) To purchase and develop land and facilities for industrial and commercial use in the depressed area, including the construction of new buildings and the rehabilitation, alteration, conversion, or enlargement of existing buildings;

(2) To purchase machinery and equipment for use in the depressed area to establish a new business or to expand an existing business if the director determines that without such aid the proposed new business would not be established in the depressed area or the proposed existing business would not expand therein; and

(3) To assist any project in the depressed area where federal aid is conditioned upon the State financing or otherwise aiding and participating in such project.

(b) Upon the required declaration, the director, in consultation with the council, is further authorized:

(1) To aid financially or otherwise the occupational and vocational training of unemployed persons in the depressed area to increase their skill and opportunity for employment in other lines of industry in any area in the State; and

(2) To furnish financially or otherwise technical assistance to any businesses or persons in such depressed area.

(c) Any loans made hereunder shall bear such interest as may be determined by the director in consultation with the council.

**SECTION 7. Restrictions on aid to depressed areas.** (a) No aid shall be granted to or used by any person or organization :

(1) To compete with any public utility which adequately provides service in a depressed area ; or

(2) To influence industry to move from one island of the State to another where such a move will unduly depress the area in which such industry is located; or

(3) For use as working capital to operate any business in a depressed area, except for occupational training.

(b) No financial assistance shall be extended hereunder unless the financial assistance applied for is not otherwise available on a reasonable basis from private lenders or from federal agencies other than those charged with area redevelopment.

(c) No financial or other assistance shall be extended for any project in a depressed area unless all of the following conditions are met in the determination of the director :

(1) The area has an economic development program approved by the director and the project for which assistance is sought is consistent with such program; and

(2) The project for which such assistance is requested will help fulfill a pressing need of the depressed area, or part thereof, in which it is or will be located; and

(3) There are other funds available which, when added to aid granted by this Act, will be sufficient to complete the project; and

(4) The project is reasonably calculated to provide more than a temporary alleviation of unemployment or underemployment.

**SECTION 8. Termination of aid to depressed areas.** When the director in consultation with the area development council determines that an area once declared to be a "depressed area" no longer qualifies as a depressed area, he shall declassify said area, and all aid to such area shall terminate, with the following exceptions :

(a) Buildings, water lines, and other such projects which have been physically started (as distinguished from merely planned or studied) shall be completed where the circumstances are such that a stoppage of said project would result in a clear loss to the State of funds already expended; and

(b) Occupational classes shall continue to the completion of the course by the trainees then enrolled; and

(c) Projects being undertaken in collaboration with the federal government shall be continued unless and until the federal government terminates its aid thereto.

**SECTION 9. Depressed area fund.** There is hereby created a fund to be known as the "State Depressed Area Fund", the moneys from which, or so much thereof as may be necessary, shall be expended by the director of

economic development, with the approval of the governor, for the purposes specified in the depressed areas redevelopment act in rendering aid to a depressed area. There is hereby appropriated to the State Depressed Area Fund sufficient moneys from the general revenues not otherwise appropriated as will from time to time be required to re-establish the said fund at the total of \$500,000; provided, that the director of economic development, when authorized by the governor, may not expend more than \$500,000 in rendering aid to any single depressed area.

**SECTION 10. Sections affected.** There is hereby added to the Revised Laws of Hawaii 1955, a new chapter, which chapter and its section shall be appropriately numbered by the revisor of statutes and entitled: "Economic Redevelopment Program for Depressed Areas."

**SECTION 11. Severability.** If any portion of this Act or its application to any circumstance or person is held to be invalid for any reason, the remainder thereof shall not be affected thereby.

**SECTION 12.** This Act shall take effect upon its approval.

(Approved July 11, 1961.) **H.B. 10.**

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## ACT 186

A Bill for an Act Relating to Reimbursement to the City and County of Honolulu Under Section 153-3 of the Revised Laws of Hawaii 1955, as Amended, for the Cost of Improvements in the Various Improvement Districts of the City and County of Honolulu and Making Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The sum of \$54,297.59 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments made by it as assessments on lands owned by the State of Hawaii in the amount of \$49,943.11 and for payments made by it as assessments on lands owned by the Kawaiahao Church in the amount of \$4,354.48 for frontage improvements constructed within improvement district number 104, Punchbowl Street from Halekauwila Street to King Street, in the City and County of Honolulu.

**SECTION 2.** The sum of \$34,661.58 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments made by it as assessments on lands owned by the Marianist Province of the Pacific (St. Louis High School) for frontage improvements constructed within improvement district number 105, St. Louis Drive, in the City and County of Honolulu.

**SECTION 3.** The sum of \$18,308.76 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments



made by it as assessments on lands owned by the State of Hawaii for general improvements constructed within improvement district number 140, Alokele Street from Waiakamilo Road to Kaiwiula Street, Kapalama, in the City and County of Honolulu.

SECTION 4. The sum of \$10,184.30 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments made by it as assessments on lands owned by the Lin Yee Chung Society Chinese Cemetery for general improvements constructed within improvement district number 139, Puulena, Manoa Valley, in the City and County of Honolulu.

SECTION 5. The sum of \$56,929.03 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments made by it as assessments on lands owned by the State of Hawaii in the amount of \$52,940.07 and for payments made by it as assessments on lands owned by the Honpa Hongwanji Mission in the amount of \$3,988.96 for general improvements constructed within improvement district number 135, Kapalama, in the City and County of Honolulu.

SECTION 6. The sum of \$8,705.52 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments made by it as assessments on lands owned by the Kaimuki Christian Church in the amount of \$200.00 and for payments made by it as assessments on lands owned by the Maunalani Hospital and Convalescent Home in the amount of \$8,505.52 for sewer improvements constructed within improvement district number 133, Maunalani Heights Sewers, in the City and County of Honolulu.

SECTION 7. The sum of \$1,374.76 is hereby appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, to reimburse the City and County of Honolulu under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955, as amended, for payments made by it as assessments on lands owned by the Kaneohe Higashi Hongwanji for sewer improvements constructed within improvement district number 141, Kaneohe Sewers, Sec. I, in the City and County of Honolulu.

SECTION 8. The sum of \$184,461.54 hereby appropriated shall be paid to the City and County of Honolulu when and as requested by resolution of the City Council of the City and County of Honolulu.

SECTION 9. This Act shall take effect upon its approval.

(Approved July 11, 1961.) H.B. 428.

## ACT 187

A Bill for an Act Relating to the Zoning Powers of the State and the Assessment of Real Property Based Upon Zones Established by the State and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings and declaration of purpose.** Inadequate controls have caused many of Hawaii's limited and valuable lands to be used for purposes that may have a short-term gain to a few but result in a long-term loss to the income and growth potential of our economy. Inadequate basis for assessing lands according to their value in those uses that can best serve both the well-being of the owner and the well-being of the public have resulted in inequities in the tax burden, contributing to the forcing of land resources into uses that do not best serve the welfare of the State. Scattered subdivisions with expensive, yet reduced, public services; the shifting of prime agricultural lands into nonrevenue producing residential uses when other lands are available that could serve adequately the urban needs; failure to utilize fully multiple-purpose lands; these are evidences of the need for public concern and action.

Therefore, the Legislature finds that in order to preserve, protect and encourage the development of the lands in the State for those uses to which they are best suited for the public welfare and to create a complementary assessment basis according to the contribution of the lands in those uses to which they are best suited, the power to zone should be exercised by the State and the methods of real property assessment should encourage rather than penalize those who would development\* these uses.

**SECTION 2. Exercise of the zoning powers of the State.** The Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new chapter to be appropriately numbered and to read as follows:

### "CHAPTER ..... STATE LAND USE COMMISSION

**Sec. 1. Definitions.** When used in this chapter:

(a) 'Agriculture' means the raising of livestock or the growing of crops, flowers, foliage, or other products.

(b) 'Commission' means the State land use commission established by this chapter.

(c) 'Conservation' means: protecting watersheds and water supplied; preserving scenic areas; providing parkland, wilderness and beach reserves; conserving endemic plants, fish, and wildlife; preventing floods and soil erosion; forestry; and other related activities.

(d) 'District' means an area of land zoned by the commission for urban, agricultural or conservation use as provided in this Act.

(e) 'Planning commission' means the planning commission of each county.

(f) 'Urban' means areas characterized by "city-like" concentrations of people, structures, streets and other related land uses.

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\* So in original

**Sec. 2. Establishment of the commission.** The State land use commission is hereby created. The commission shall consist of seven members who shall hold no other public office and shall be appointed in the manner, and serve for the term, set forth in section 14A-3. One member shall be appointed from each of the senatorial districts and one shall be appointed at large. The director of the department which is responsible for the administering the provisions of Act 234, SLH1957 and the director of the department of planning and research shall serve as ex officio voting members. The commission shall elect its chairman from one of its appointed members. The members shall receive no compensation for their services on the commission, but shall be reimbursed for actual expenses incurred in the performance of their duties.

The commission shall be a part of the department of planning and research for administration purposes as set forth in section 14A-4.

The commission may engage employees necessary to perform its duties, including administrative personnel and one or more field officers. One field officer may be named as the executive officer of the commission. Field officers shall be persons qualified in land use analysis. Departments of the State government shall make available to the commission such data, facilities and personnel as are necessary for it to perform its technical duties. The commission may receive and utilize gifts and any funds from the federal or other governmental agencies. It shall adopt rules guiding its conduct, maintain a record of its activities and submit an annual report of its activities, accomplishments and recommendation to the governor and to the legislature through the governor.

**Sec. 3. Classification and districting of lands.** There shall be three major classes of uses to which all lands in the State shall be put: urban, agriculture and conservation. The commission shall group contiguous land areas suitable for one of these three major uses into a district and designate it as an urban district, agricultural district or conservation district, as the case may be. The commission shall set standards for determining the boundaries of each class of district; provided, that in the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included; in establishment of the boundaries for agriculture districts the greatest possible protection shall be given to those lands with a high capacity for intensive cultivation; and in the establishment of the boundaries of conservation districts, the 'forest and water reserve zones' provided in Act 234, SLH 1957, are hereby re-named 'conservation districts' and, upon the effective date of this chapter, the boundaries of the forest and water reserve zones theretofore established pursuant to Act 234, SLH 1957, shall constitute the boundaries of the conservation districts, provided, that thereafter the power to determine the boundaries of the conservation districts shall be in the commission.

Zoning powers now granted to counties under section 138-42 shall govern the zoning within the districts, with the exception that areas may not be zoned for urban uses except in those districts that are designated as urban by the commission. Zoning powers within conservation districts shall be exercised by the department to which is assigned the responsibility of administering the provisions of Act 234, SLH 1957.

**Sec. 4. Adoption of district boundaries.** The commission shall prepare use classification maps not later than 18 months from the effective date of

this chapter showing the proposed boundaries of districts for conservation, agricultural and urban uses. At least one public hearing shall be held in each county prior to the final adoption of the district boundaries for that county. Notice of the time and place of such hearing shall be published in the same manner as notices required for public hearings by the planning commission of the appropriate county. If there is no planning commission, then the notice shall be published at least 15 days prior to the hearing in a newspaper of general circulation within the county. Such notice shall indicate the time and place the maps showing the proposed district boundaries within the county may be inspected prior to the hearing.

At the hearing, interested owners, lessees, officials, agencies and individuals may appear and be heard. They shall further be allowed at least 15 days following the final public hearing held in the county to file with the commission a written protest or other comments or recommendations. The planning commission of the county concerned shall be furnished with copies of any written protest, comment or recommendation. The district boundaries within a county shall be adopted in final form within a period of not more than 90 days and not less than 45 days from the time of the last hearing in the county, provided that district boundaries for all counties shall be adopted in final form not later than 24 months from the effective date of this chapter. The commission shall prepare and furnish each county with copies of classification maps for that county showing the district boundaries adopted in final form.

**Sec. 5. Temporary district boundaries.** Prior to the final adoption of district boundaries as provided in section 4 of this chapter, the commission shall adopt and enforce the interim regulations as provided in section 9 for temporary districts whose boundaries shall be determined and shown on interim use classification maps. These temporary districts shall be determined so far as practicable and reasonable to maintain existing uses and only permit changes in use that are already in progress until the district boundaries are adopted in final form. Such temporary district boundaries shall be established and mapped as soon as possible, but only after public hearings as provided in section 4, but in any case, these temporary district boundaries shall be adopted not later than nine months after the effective date of the chapter.

**Sec. 6. Amendments to district boundaries.** Any department or agency of the State or county, or any property owner or lessee through the county planning commission may petition the commission for a change in the boundary of any district. Within 120 days after receipt of such petition, the county planning commission shall forward the petition, together with its comments and recommendations, to the commission. The commission may also initiate changes in a district boundary which shall be submitted to the appropriate county planning commission for comments and recommendations in the same manner as any other request for a boundary change.

Within 120 days after the receipt of the petition and recommendations from the county, the commission shall advertise a public hearing to be held on the appropriate island in accordance with the requirements of section 4. Within not less than 45 days after such hearing the commission shall act upon the petition for change. The commission may approve the change with six affirmative votes. No change shall be approved unless the petitioner has submitted proof that the area is needed for a use other than that for which the district in which it is situated is classified and either of the following requirements has been fulfilled:

(a) The petitioner has submitted proof that the land is not usable or adaptable

for the use in which it is classified, or (b) Conditions and trends of development have so changed since the adoption of the present classification, that the present classification is unreasonable.

**Sec. 7. Special permits.** The commission may permit, by regulation, certain unusual and reasonable uses other than those for which the district is classified. If any person desires to use his land in a certain specified manner, but is denied such use because (a) His land is situated in a district which prohibits such use or the regulations adopted by the commission do not permit the desired use, or (b) Either the county planning commission or the department to which is assigned the responsibility of administering the provisions of Act 234, SLH 1957, rules that the use for which the district in which his land is situated is classified or the regulations adopted by the commission do not permit such desired use, he may petition the commission for permission to use his land in the manner desired. The commission shall conduct a hearing in the county in which the petitioner's land is situated, within a period of not less than 30 nor more than 120 days from the receipt of the petition. The commission shall notify such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

The commission shall consider any unusual condition or use that could not reasonably have been anticipated when the district boundaries and regulations were adopted or amended, and may, under such protective restrictions as may be deemed necessary, permit such desired use, but only when such use would promote the effectiveness and objectives of this chapter. A decision in favor of the petitioner shall require five affirmative votes. Appeals from any final order of the commission may be made to the circuit court of the circuit in which the land is situated, and shall be made pursuant to the Hawaii Rules of Civil Procedure.

**Sec. 8. Adoption of land use regulations.** The commission shall, within 18 months from the effective date of this chapter, prepare proposed regulations prescribing the appropriate uses for the land in the various classes of districts. At least one public hearing shall be held in each county in the manner provided in section 4 of this chapter prior to the final adoption of the regulations. The final regulations for the State shall be adopted within a period of not more than 90 days and not less than 45 days from the time of the final hearing in the State, provided that the regulations shall be adopted in final form not later than 24 months from the effective date of this chapter.

No regulation adopted by the commission shall deprive any owner or lessee of real property of its use or maintenance for the purpose or purposes to which it is then lawfully devoted, except that regulations may be adopted for the elimination of non-conforming uses upon a change in ownership, lessee or land use.

**Sec. 9. Interim regulations.** Prior to the adoption of the regulations in their final form as provided in section 8, the commission shall adopt and enforce temporary regulations. Such temporary regulations shall be related to, and shall be designed to maintain the existing condition, in so far as practicable and reasonable until the adoption of regulations in their final form. Such interim regulations shall apply to those interim use districts zoned in the manner provided in section 5. Such temporary regulations shall be adopted as rapidly as possible, but only after public hearings as provided in section 4 of this chapter, but in any case the temporary regulations shall be adopted not later than nine months from the effective date of this chapter.

**Sec. 10. Amendments to regulations.** By the same methods set forth in section 6, a petition may be submitted to change, or the commission may initiate a change in the regulations on land use. No such changes shall, however, be made, unless a hearing or hearings are held in each of the counties. Within not less than 45 and not more than 90 days after the last of such hearings, the commission shall act to approve or deny the requested change in regulations. Such petition for a change shall be based upon proof submitted that conditions exist that were not present when the regulation was adopted or that the regulation does not serve the purposes of this chapter.

**Sec. 11. Use of field officers.** Notwithstanding the provisions of sections 6 and 7 requiring a hearing by the full commission if any application requiring a hearing is received which the commission in the course of its regular meetings shall not be able to hear for more than 60 days, it may authorize a field officer to conduct such a hearing and make a recommendation, provided all other necessary rules for hearings are adhered to. The recommendations of the field officer shall be submitted to the commission at its next meeting, and any recommendation, or rulings by the commission as a result of this recommendation, shall be subject to a review of the full commission at the next hearing date scheduled for the county in which the land concerned is located, if either the commission or the applicant notified the other party at least 20 days prior to this date.

**Sec. 12. Periodic review of district and regulations.** Irrespective of changes and adjustments that it may have made, the commission shall make a comprehensive review of the classification and districting of all lands and of the regulations at the end of each five years following the adoption thereof. The assistance of appropriate State and County departments shall be secured in making this review and public hearings shall be held in each county in accordance with the requirements set forth for the adoption in final form of district boundaries and regulations under this chapter.

**Sec. 13. Enforcement.** The county planning commission shall enforce within its county the use classification districts and regulations adopted by the commission and shall report to the commission all violations thereof.

**Sec. 14. Penalty for violation.** Any person who violates any provision of this chapter, or any regulation established pursuant to this chapter, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

**Sec. 15. Adjustments of assessing practices.** Upon the adoption of district boundaries and regulations, certified copies of the use classification maps showing the district boundaries and the regulations shall be filed with the department of taxation. Thereafter the department of taxation shall, when making assessments of property within a district, give consideration to the use or uses that may be made thereof as well as the uses to which it is then devoted.

**Sec. 16. Conflict.** Except as specifically provided by this chapter and the regulations adopted thereto, neither the authority for the administration of the provisions of Act 234, SLH 1957 as it has been assigned by Act 1, ISS 1959, as it may be amended, nor the authority vested in the county planning commissions under the provisions of section 138-42 shall be affected."

**SECTION 3.** Chapter 128, Revised Laws of Hawaii 1955, as amended, is hereby further amended by adding a new section to be appropriately numbered and to read as follows:

**"Sec. . Dedicated lands.** (a) A special dedicated land reserve is established to enable the owner of any parcel of land within an agricultural district and/or a conservation district to dedicate his land for a specific ranching or other agricultural use and to have his land assessed at its value in such use.

(b) If any owner desires to use his land for a specific ranching or other agricultural use and to have his land assessed at its value in this use, he shall so petition the director of taxation and declare in his petition that his land can best be used for the purpose for which he requests permission to dedicate his land and that if his petition is approved he will use his land for this purpose.

Upon receipt of any such petition, the director of taxation shall request the land study bureau to make a finding of fact as to whether the land in the petitioned area is reasonably well suited for the intended use. The finding of the land study bureau shall include and be based upon the productivity ratings of the land in those uses for which it is best suited, a study of the ownership, size of operating unit and present use of surrounding similar lands and other criteria as may be appropriate.

The director of taxation shall also request the director of planning and research to make a finding of fact as to whether the intended use is in conflict with the over-all development plan of the State.

If both findings are favorable to the owner, the director of taxation shall approve the petition and declare that the owner's land is dedicated land.

(c) The approval by the director of taxation of the petition to dedicate shall constitute a forfeiture on the part of the owner of any right to change the use of his land for a minimum period of ten years, automatically renewable indefinitely, subject to cancellation by either the owner or the director of taxation upon five years notice at any time after the end of the fifth year. In case of a change in major land use classification by a State agency, such that the owner's land is placed within an urban district, the dedication may be cancelled within sixty days of the change, without the five years notice, by mutual agreement of the owner and the director of taxation.

(d) Failure of the owner to observe the restrictions on the use of his land shall cancel the special tax assessment privilege retroactive to the date of the petition, and all differences in the amount of taxes that were paid and those that would have been due from assessment in the higher use shall be payable with a five per cent per annum penalty from the respective dates that these payments would have been due. Failure to observe the restrictions on the use means failure for a period of over one calendar year to use the land in that manner requested in the petition or the overt act of changing the use for any period. Nothing in this paragraph shall preclude the State from pursuing any other remedy to enforce the covenant on the use of the land.

(e) The director of taxation shall prescribe the form of the petition. The petition shall be filed with the director of taxation by September 1 of any calendar year and shall be approved or disapproved by December 15. If approved, the assessment based upon the use requested in the dedication shall be effective on January 1, next.

(f) The owner may appeal any disapproved petition as in the case of an appeal from an assessment.

(g) The term 'owner' as used in this section includes lessees of real property whose lease term extends at least ten years from the date of the petition."

**SECTION 4. Appropriation.** There is hereby appropriated out of the general fund of the State of Hawaii the sum of \$50,000, or so much thereof

as may be necessary, to the State land use commission for the expense of establishing, operating and administering the functions of the commission for the period beginning July 1, 1961, and ending June 30, 1962.

SECTION 5. If any section or part of this Act is invalid for any reason, such invalidity shall not affect the validity of the remaining sections and parts of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 11, 1961.) **H.B. 1279.**

## ACT 188

An Act Relating to Compensation of Public Employees, and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 4-1 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By amending paragraph (e) thereof to read as follows:

"(e) 'Department' includes any department, court, board, commission or agency of the State or any of its political subdivisions."

(b) By amending paragraph (f) thereof to read as follows:

"(f) 'Director' means the director of personnel services in the case of the State, director of civil service in the case of the city and county of Honolulu or the respective personnel directors in the case of the counties of Hawaii, Maui and Kauai."

(c) By adding thereto at the end of the section, the following:

"(1) 'Chief executive officer' means the governor in the case of the State, the mayor in the case of the city and county of Honolulu or the chairman of the respective boards of supervisors in the case of the counties of Hawaii, Maui and Kauai.

(m) 'Legislative body' means the legislature in the case of the State, the city council in the case of the city and county of Honolulu, and the respective boards of supervisors in the case of the counties of Hawaii, Maui and Kauai.

(n) 'Fiscal officer' means the director of the budget in the case of the State, the director of finance in the case of the city and county of Honolulu, and the respective auditors in the case of the counties of Hawaii, Maui and Kauai.

(o) 'Affected persons or parties' shall include employee' organizations, departments, persons and their respective representatives.

(p) 'Pricing' means the assignment of classes to salary range.

(q) 'Bench mark class' means a class which is (1) pivotal in that the assignment of other classes within a series of classes may be made with reference to such class, (2) easily identifiable according to the nature of the duties and responsibilities of the positions within the class, and (3) common to all or most of the jurisdictions."

SECTION 2. Section 4-2 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By substituting for the words "the Territory", in the paragraph designated "(e)", the word "government".

(b) By amending the last paragraph to read as follows:



"Each director shall conduct the necessary and appropriate annual studies in order that the purposes and policies expressed in this section will be effectively achieved and complied with. A director may enter into cooperative arrangements with other public and private agencies in the conduct of such annual studies. The results of such studies shall be submitted annually to the respective chief executive officers and legislative bodies."

SECTION 3. Section 4-4 of the Revised Laws of Hawaii 1955, as amended, is hereby deleted and the following substituted therefor:

**"Sec. 4-4. Adoption of compensation plan.** (a) All directors shall meet annually in joint conference in September in Honolulu at the call of the state director: (1) to determine policies and standards relative to compensation, whereby on the basis of similarity of duties performed and responsibilities assumed, the same qualifications may reasonably be required and the same schedule of pay may be equitably applied to all positions in the same class, without regard to the particular job title that may be assigned to the position; and (2) to determine those classes which are bench mark classes, and assign the same to the proper salary range. Representatives of organizations representing employees and interested persons may attend and participate in the deliberations at the conference, but not vote. Decisions shall be made by majority vote of all directors. In the event a director is absent, he may authorize his deputy or a staff member to act in his stead.

(b) After the conference, each director shall assign each class to the appropriate salary range by relating the same with the established bench mark classes and in conformance with the aforesaid policies and standards. At such time and place as decided by the directors, the director shall meet again in joint conference, to resolve any differences. Employee representatives and interested persons may attend and participate in the deliberations, but not vote. Decisions shall be made by majority vote of all directors. In the event a director is absent, he may authorize his deputy or a staff member to act in his stead. The compilation of the tentative compensation plan for each jurisdiction shall be completed before December 15.

Copies thereof shall be made available to department heads and employee organizations at the respective departments of civil service.

(c) There shall be an appeal board composed of one commission member from each jurisdiction, who shall be appointed by the governor. The appeal board members shall serve for a term of one year and until the appointment and qualification of their successors. The cost of operations thereof shall be met by state legislative appropriation.

The appeal board shall hear pricing appeals from affected persons or parties. The appeal board may make rules and regulations for the conduct of its hearings. At least one annual hearing shall be held in each jurisdiction. Notice of time and place of such appeal hearings shall be published in the jurisdiction in a newspaper of general circulation at least ten days prior to such hearing.

The appeal board may appoint a qualified hearing officer and invest him with the power to hear such appeals and report thereon to the appeal board.

The appeal board may hold public hearings on the compensation plan.

(d) After public hearings and hearing all appeals, the appeal board shall make whatever adjustments that are necessary based on the policies and standards referred to in section 4-4(a). Decisions shall be made on the basis of majority vote and shall be binding on all jurisdictions. Each jurisdiction

shall be entitled to one vote. In the event a commissioner is absent, another commissioner of that jurisdiction shall vote in his stead. The final adjustment of the compensation plan shall be completed by the third (3rd) Wednesday of February. The compensation plan, after final adjustments, shall be effective as of July 1. The salary range assignments of classes shall not be appealable until the next annual review of the compensation plan.

(e) Following the final adjustments, each director shall submit to the legislative body of his jurisdiction, through the chief executive officer, a report setting forth the said compensation plan and the cost thereof, for its information.

(f) The director shall assign new classes to salary ranges on the basis of the policies and standards referred to hereinabove. Such assignments shall be effective immediately if the availability of funds is certified to by the respective fiscal officer. Such assignments shall be in effect until the adoption of the next compensation plan.

All appeals thereof shall be filed with the appeal board within twenty (20) days from the date of notice to the employee and the hearing shall be held at the time of the annual hearing on the compensation plan. A decision or order of the appeal board in favor of the person appealing and granting a higher compensation shall be retroactive to the date of action by the director.

There shall be an annual survey of the compensation plan in each jurisdiction to determine any necessary adjustments. The procedure prescribed above shall be followed in the adoption of the new compensation plan."

SECTION 4. Section 4-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(a) Functions of the commission. The commission shall hear and decide appeals by employees and department heads from actions taken by the director under the provisions of this part, except as to appeals concerning the compensation plan".

SECTION 5. Section 4-8 of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the words "the director of the bureau of the budget", in the second paragraph thereof, the words "the respective fiscal officers".

SECTION 6. Section 4-11 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 4-11.** Incumbents in positions in each class which is assigned to a different salary range as a result of the adoption of the compensation plan or subsequent assignment or reassignment of classes by the director, as provided in section 4-4, shall thereupon receive compensation at a step in the appropriate salary range as follows:

(a) If the incumbent was receiving compensation less than the minimum step of the salary range to which his appropriate class is assigned, his compensation shall be increased to that minimum step, but if the difference between such rates is less than the minimum increment in the lower grade, his compensation shall be increased to the second step of the higher grade.

(b) If the incumbent was receiving compensation within the salary range prescribed for his class and at one of the steps fixed therein and the assignment or reassignment is to a higher salary range, his compensation shall be increased to the next higher step, but if the assignment or reassignment is to a lower salary range, no change shall be made in his existing compensation.

(c) If the incumbent was receiving compensation within the higher salary range prescribed for his class, but not at one of the steps fixed therein, his compensation shall be increased to the next higher step, but if the difference between such rates is less than the minimum increment in the lower grade, his compensation shall be increased to the second higher step of the higher grade.

(d) If the incumbent was receiving compensation at a step within the salary schedule, but in excess of the salary range prescribed for his class, he shall continue to receive such compensation so long as he continues as an incumbent of such position, or, until such time as the class to which such position is assigned is reassigned to a salary range having a maximum step in excess of such compensation.

No service anniversary date shall be affected by the application of any provision of this section, nor shall the application of this section be in any way deemed an amendment of or change in any of the provisions of chapter 3."

SECTION 7. Section 4-12 of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the word "governor", the words "chief executive officer", and by substituting for the word "Territory", the word "government".

SECTION 8. The word "State" shall be substituted for the word "Territory" wherever the latter appears in chapter 4, except as otherwise provided herein.

SECTION 9. Section 4-32 of the Revised Laws of Hawaii 1955, as amended, is hereby repealed.

SECTION 10. There is hereby appropriated out of the general revenues of the State for the period ending June 30, 1962, not otherwise appropriated, the sum of \$6,000, or so much thereof as may be necessary, to the department of personnel services for the necessary expenses connected with implementing the provisions of this Act.

SECTION 11. This Act shall take effect upon its approval.

(Approved July 12, 1961.) **S.B. 213.**

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## ACT 189

A Bill for an Act Providing for the Rehabilitation of Persons Suffering Losses in State Disasters.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Purpose.** The purpose of this Act is to maintain the economic standard and growth of the State, to alleviate wide-spread suffering caused by disasters and to promote the general welfare of the State by providing aid to persons suffering losses from disasters which are of such character and magnitude as to justify rehabilitative assistance from the State.

### PART 1. GENERAL PROVISIONS

SECTION 2. **Definitions.** As used in this Act:

(a) "State disaster" means any unfortunate, sudden and extraordinary occurrence declared by the governor pursuant to section 3 of this Act to

have caused losses and suffering of such character and magnitude as to require and justify rehabilitative assistance from the State;

(b) "Coordinator" means the rehabilitation coordinator provided for in section 5 of this Act;

(c) "Director" means the director of economic development;

(d) "Small Business Administration" means the Small Business Administration of the United States;

(e) "Board" means the board of land and natural resources; and

(f) "Rehabilitation area" means any area of the State of Hawaii struck by a state disaster and declared to be in need of rehabilitation by the governor pursuant to section 3 of this Act.

**SECTION 3. Governor's determination.** After the occurrence of any sudden and extraordinary event which causes losses and suffering, the governor shall make a determination as to whether a state disaster has occurred and thereafter may declare a state disaster for the entire state or any portion thereof. In making this determination the governor shall consider whether the effect on the health and living standards of a substantial number of persons and the effect on the economy of the State are of such a nature, as to warrant assistance from the state government.

The governor may in the proclamation designate the whole or any part of the State eligible for the relief provided for in this Act and unless otherwise provided herein may authorize any or all of the relief measures provided for in parts 2, 3, and 4 of this Act.

**SECTION 4. Duties of state and county department heads.** Whenever the governor declares a state disaster all executive heads of departments and all county and city and county agencies shall:

(a) Release personnel temporarily from their respective departments or agencies to work as needed under the direction of the rehabilitation coordinator;

(b) Expedite the granting of rehabilitative assistance administered through their respective offices;

(c) Provide the necessary information, records and assistance for reporting on the rehabilitative efforts following a state disaster; and

(d) Give full cooperation to the coordinator.

**SECTION 5. Rehabilitation coordinator; authority.** The disaster relief and rehabilitation authorized by this Act shall be administered by a rehabilitation coordinator who shall be appointed by the governor and shall be directly responsible to the governor. The coordinator shall be chosen from the staff of any state, county or city and county agency and shall be released with pay from his regular duties for the period necessary to perform his duties. The reasonable and necessary expenses incurred by the coordinator shall be paid from the funds available or made available to the coordinator.

**SECTION 6. Duties of coordinator.** The coordinator shall:

(a) Provide for the official contact between the State and persons affected by the disaster;

(b) Make available to such persons information on all state rehabilitation programs;

(c) Aid all persons affected by the disaster in securing assistance available under the provisions of this Act;

(d) Inform such persons of assistance available from sources other than the State and assist the victims in obtaining such assistance;

(e) Keep a list of such persons, posting thereon all assistance received from the State and, to the extent that the information is available, assistance from other sources;

(f) Advise the governor as to the administration and effectiveness of the various programs;

(g) Establish a temporary office on the island affected by the disaster if necessary, and where more than one island is affected establish such offices as the governor may direct; and

(h) File a report with the governor and the legislature describing the organization, activities, expenditures and assistance granted pursuant to this Act and making recommendations to increase the effectiveness of this Act.

**SECTION 7. Relation to other agencies.** This Act is not intended, nor shall it be construed in any manner, to conflict with or assume the responsibility of the American National Red Cross, any agency of the federal government, the Salvation Army, or the civil defense activities of the department of defense, State of Hawaii.

**SECTION 8. Closing of application date; position of coordinator terminated.** The governor shall set a date after which no further applications for assistance under this Act shall be received and may thereafter for good cause extend such date for a reasonable period of time. If no such date is set by the governor, no application shall be received six months after the issuance of the governor's proclamation declaring a state disaster.

With respect to each state disaster declared by the governor pursuant to section 3 of this Act the position of coordinator shall be abolished upon completion of his duties provided for in this Act as determined by the governor.

**SECTION 9. Consideration of other recoveries.** In determining the eligibility of each person for every manner of assistance provided for in this Act, the administering authorities shall consider every other type of assistance granted under the authority of this Act, by any agency of the federal government, by the American National Red Cross, the Salvation Army and every other manner of assistance, whether through insurance, donation or compensation from any source whatsoever.

## **PART 2. HOUSING**

**SECTION 10. Housing relief.** Whenever the governor pursuant to section 3 of this Act declares a state disaster, he may invoke the provisions of part 2 of this Act. After such declaration by the governor and pursuant to the governor's proclamation, the Hawaii Housing Authority shall construct public housing units on public lands which may be set aside by the governor, using for such purpose the funds available or made available to the Authority. Housing so constructed shall be of standard quality and shall conform substantially to the specifications used on other projects controlled by the Authority.

**SECTION 11. Use of funds in relation to federal projects.** The funds allocated to this part shall be expended by the Hawaii Housing Authority for the designated purpose under the provisions of chapters 74, 76 or 77 of the Revised Laws of Hawaii 1955, as amended, only upon the finding that the public housing project found necessary does not qualify for federal aid or participation.

### PART 3. COMMERCIAL LOANS

**SECTION 12. Administration.** Except as otherwise provided, the director of the department of economic development is hereby designated as the administrator responsible for the administration of this part. The director shall:

(a) Administer loans for the purpose and according to the provisions of this part; and

(b) Promulgate rules and rules\* and regulations to carry out the purposes of this part, provided that such rules and regulations shall not be required in making loans for any state disaster occurring within six months from the effective date of this Act.

**SECTION 13. Types of loans; participation.** The director is authorized to make two types of loans: (1) loans in participation with private financial institutions to be known as participating loans and (2) loans wholly from state funds to be known as direct loans. The director may negotiate contracts with private financial institutions upon reasonable terms for the participation of such institutions with the State in the making of loans pursuant to this part including but not limited to a term by which the financial institutions undertake to service the loan. Participation agreements shall provide that at least ten per cent of the total loan be comprised of funds from the private financial institution. The private financial institution's share of the disbursement of funds of any loan shall be the same percentage agreed upon for its participation in the total amount of that loan. No direct loan shall be made unless a participating loan cannot be negotiated at reasonable terms.

**SECTION 14. Purposes of loans.** Loans may be made for the following purposes: to purchase inventory, equipment and machinery; to construct, repair or restore buildings; to provide operating funds; and to re-finance outstanding business loans on equipment and buildings; provided that the loans shall be used to rehabilitate the business of the disaster victim as nearly as possible to its pre-disaster level; and provided further that the loans shall not be used to begin a business substantially different from the one the disaster victim was engaged in prior to the state disaster. Business concerns which were non-owners of buildings prior to the state disaster shall not be precluded from obtaining building loans under the provisions of this part.

**SECTION 15. Eligibility for loans.** Loans may be made to individuals, partnerships, corporations, cooperatives or other business associations, but only if the applicant:

(a) Suffered loss of or damage to business property in a rehabilitation area as a result of a state disaster; and

(b) Had operated an industrial, manufacturing, processing, wholesaling or retailing business, or professional or service business, or building rental business, immediately prior to such disaster; and

(c) Presents a suitable program for rehabilitation or re-establishment of a business to the pre-disaster level; and

(d) Has reasonable ability to repay the loan; and

(e) Presents written evidence that the Small Business Administration had declined an application for financial assistance under the Small Business Administration Disaster Loan Program or has reduced the amount of the loan

\* So in original.

request; provided, that such declination was not due to the applicant's having sufficient financial resources to rehabilitate himself; or

(f) Cannot secure any loans from the Small Business Administration Disaster Loan Program because the making of such loans is not covered by the program, and the director is reasonably satisfied that the applicant is not able to secure loans from private lending institutions due to the applicant's having sufficient financial resources to rehabilitate himself. Item (f) of this section shall be applied in the alternative with respect to item (e) of this section.

**SECTION 16. Terms.** (a) The amount of loans to any one applicant shall in no case exceed \$25,000.

(b) No loan shall be made for a term exceeding 20 years.

(c) Each loan shall bear simple interest at the rate of four per cent per annum for direct loans and the state's share of participating loans.

(d) The commencement date for the repayment of the first installment on principal only for each loan may be deferred for a period of six months from the date of the loan.

**SECTION 17. Security for loans.** Security for any loan when not available is not required; however, whenever property other than inventory, is purchased with the loan funds, a mortgage or pledge of such property shall be required as security for the loan. The director may, in his discretion, permit the mortgage or pledge to be subordinated to the lien of a financial institution or government lending agency in the event such subordination should become necessary for the borrower to secure additional funds.

**SECTION 18. Conditions of loans.** Every applicant who is granted a loan under the provisions of this part shall:

(a) Expend the loan funds only for those purposes authorized by the director;

(b) Agree not to sell or otherwise dispose of mortgaged or pledged property except on written consent of the director, and except upon such conditions as the director may prescribe in writing;

(c) Undertake to pay, when due, all taxes, liens judgments, or assessments which may be lawfully assessed against the property mortgaged, together with the costs and expenses of any foreclosure of such mortgage; and

(d) Keep insured to the satisfaction of the director all buildings and other insurable property covered by any mortgage.

**SECTION 19. Default.** If the applicant is in default of any term or condition in any loan agreement or mortgage or the provisions of this part, the unpaid balance of the loan, including interest, shall, at the option of the director, become due and payable forthwith, and the director may foreclose any mortgage by any method provided for by law.

#### **PART 4. UNEMPLOYMENT COMPENSATION**

**SECTION 20. Disaster unemployment benefits.** Whenever the governor declares a state disaster and invokes the provisions of this part as provided in section 3 of this Act, the maximum total benefits in a benefit year as appearing in column D of section 93-21 of the Revised Laws of Hawaii 1955, as amended, for each high quarter wage scale shall be increased by adding the product of 13 multiplied by the basic weekly benefit appearing in column B to the appropriate line of column D.

The extending benefits shall be allowed only for individuals who reside in a rehabilitation area and shall be available for only one benefit year which shall begin no later than one year following the issuance of the governor's proclamation declaring a state disaster.

SECTION 21. Act 6 of the First State Legislature, Special Session of 1960 is hereby amended by deleting therefrom the words "or after" appearing in subsection (a) of Section 6 thereof.

SECTION 22. Act 4 of the First State Legislature, Special Session, 1960 is hereby amended by deleting the phrase "or after May 22, 1960" wherever it appears in Section 6 and by inserting in lieu thereof in each such places the date "May 23, 1960".

SECTION 23. **Severability.** If any section, part or provision of this Act or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end this Act is declared severable.

SECTION 24. This Act shall take effect upon its approval.

(Approved July 12, 1961.) **H.B. 13.**

## ACT 190

A Bill for an Act Relating to the Regulation of the Conduct of Trade and Commerce.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. **Definitions.** As used in this Act.

(1) "Commodity" shall include, but not be restricted to, goods, merchandise, produce, choses in action and any other article of commerce. It also includes trade or business in service trades, transportation, insurance, banking, lending, advertising, bonding and any other business.

(2) "Person" or "persons" includes individuals, corporations, firms, trusts, partnerships and incorporated or unincorporated associations, existing under or authorized by the laws of this State, or any other state, or any foreign country.

(3) "Purchase" or "buy" includes, "contract to buy", "lease", "contract to lease", "acquire a license" and "contract to acquire a license".

(4) "Purchaser" includes the equivalent terms of "purchase" and "buy".

(5) "Sale" or "sell" includes "contract to sell", "lease", "contract to lease", "license" and "contract to license".

(6) "Seller" includes the equivalent terms of "sale" and "sell".

SECTION 2. **Combinations in Restraint of Trade, Price-Fixing and Limitation of Production Prohibited.**

(1) Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce in the State, or in any section of this State is declared illegal.

(2) Without limiting the generality of the foregoing no person, exclusive of members of a single business entity consisting of a sole proprietorship, partnership, trust or corporation, shall agree, combine, or conspire with any other person or persons, or enter into, become a member of, or



participate in, any understanding, arrangement, pool, or trust, to do, directly or indirectly, any of the following acts, in the State or any section of the State:

- (a) fix, control, or maintain, the price of any commodity;
- (b) limit, control, or discontinue, the production, manufacture, or sale of any commodity for the purpose or with the result of fixing, controlling or maintaining its price;
- (c) fix, control, or maintain, any standard of quality of any commodity for the purpose or with the result of fixing, controlling or maintaining its price;
- (d) refuse to deal with any other person or persons for the purpose of effecting any of the acts described in (a) to (c) of this subsection.

(3) Notwithstanding the foregoing subsection (2) and without limiting the application of the foregoing subsection (1), it shall be lawful for a person to enter into any of the following restrictive covenants or agreements ancillary to a legitimate purpose not violative of this Act, unless the effect thereof may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the State:

- (a) A covenant or agreement by the transferor of a business not to compete within a reasonable area and within a reasonable period of time in connection with the sale of said business;
- (b) A covenant or agreement between partners not to compete with the partnership within a reasonable area and for a reasonable period of time upon the withdrawal of a partner from the partnership;
- (c) A covenant or agreement of the lessee to be restricted in the use of the leased premises to certain business or agricultural uses, or covenant or agreement of the lessee to be restricted in the use of the leased premises to certain business uses and of the lessor to be restricted in the use of premises reasonably proximate to any such leased premises to certain business uses;
- (d) A covenant or agreement by an employee or agent not to use the trade secrets of the employer or principal in competition with his employer or principal, during the term of the agency or thereafter, or after the termination of employment, within such time as may be reasonably necessary for the protection of the employer or principal, without imposing undue hardship on the employee or agent.

(4) Any price-fixing arrangement authorized under sections 205-20 through 205-26, Revised Laws of Hawaii 1955, as amended, shall be excluded from the prohibition of this section.

**SECTION 3. Requirements and output contracts: tying agreements.** No person shall sell or buy any commodity, or fix a price or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the other person or persons shall not deal in the commodity of a competitor of the seller, or shall not deal with the competitor of the purchaser, as the case may be, when the effect of the sale or purchase or the condition, agreement, or understanding, may be to substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the State.

**SECTION 4. Refusal to deal.** No person shall refuse to sell any commodity to, or to buy any commodity from, any other person or persons, when the refusal is for the purpose of compelling or inducing the other person or persons to agree to or engage in acts which, if acceded to, are prohibited by other sections of this Act.

**SECTION 5. Mergers, Acquisitions, Holdings and Divestitures.** (1) No corporation shall acquire and hold, directly or indirectly, from and after the effective date of this Act, the whole or any part of the stock or other share capital of any other corporation, or the whole or any part of the assets of any other corporation where the effect of such acquisition and holding may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the State. Provided that this subsection shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this subsection prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporation, when the effect of such formation is not substantially to lessen competition.

(2) No corporation shall hold directly or indirectly the whole or any part of the stock or other share capital of any other corporation, or the whole or any part of the assets of any other corporation, acquired prior to the effective date of this Act, where the effect of such holding is substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the State. Where the Court shall find that the holding of such stock, share capital, or assets is substantially to lessen competition or tend to create a monopoly, and is therefore not in the public interest, then the Court shall order the divestiture or other disposition of such stocks, share capital, or assets of such corporation, and shall prescribe a reasonable time, manner and degree of such divestiture or other disposition thereof, provided that the court shall not order the divestiture or other disposition of the assets of such corporation unless it is necessary to eliminate the lessening of competition or the tendency to create a monopoly, and the assets are reasonably identifiable and separable, and it can be done without causing undue hardship on the economic entity.

**SECTION 6. Interlocking Directorates and Relationships.** (1) That from and after six months from the effective date of this Act no person shall be at the same time a director, officer, partner, or trustee in any two or more firms, partnerships, trusts, associations or corporations or any combination thereof, engaged in whole or in part in commerce, if such firms, partnerships, trusts, associations or corporations or any combination thereof, are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of this Act.

(2) From and after six months from the effective date of this Act, no person shall be at the same time a director, officer, partner, or trustee in any two or more non-competing firms, trusts, partnerships or corporations or any combination thereof, any one of which has a total net worth aggregating more than \$100,000, or a total net worth of all of the business entities aggregating more than \$300,000, engaged in whole or in part in trade or commerce in this State where the effect of a merger between such business entities whether legally possible or not may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section

of the State. The total net worth herein mentioned with reference to a corporation shall consist of the capital, surplus and undivided profits; the total net worth with reference to a firm or partnership shall consist of the capital account; and the total net worth with reference to a trust shall consist of the principal of the trust.

This subsection shall not apply to an interlocking directorship between a bank doing a banking business and any other business firm or entity.

(3) No person shall by the use of a representative or representatives effectuate the result prohibited in the preceding subsections where the act or acts of such representative or representatives acting in their capacities as directors, officers, partners or trustees of such business entities indicate an attempt directly or indirectly to manipulate the conduct of the business entities to the detriment of any of such entities and to the benefit of any other entity in which such person has an interest.

(4) The validity or invalidity of any act of any director, officer or trustee done by such director, officer or trustee while occupying such position in violation of the provisions of this section shall be determined by the statutory and common law of the State of Hawaii relating to corporations, trust or associations as the case may be except that it shall not be affected by the provisions of Section 1-9, Revised Laws of Hawaii 1955. The non-applicability of Section 1-9, Revised Laws of Hawaii 1955 shall be limited to this section only.

The state attorney general may bring an action at any time to cause a director, officer or trustee who may be occupying such position in violation of this section, to vacate the office or offices to effectuate the termination of the prohibited interlocking relationship. The state attorney general or any person affected by any act or acts of such director, officer or trustee may move to cause such director, officer or trustee who may be occupying such position in violation of this section to vacate the office or offices to effectuate the termination of the prohibited interlocking relationship, in any action or proceeding in which the person affected, and any such director, officer or trustee, or the legal entities in which such director, officer or trustee holds office are parties to the action or proceeding, without the necessity of bringing a separate action to try title to office. The court upon finding that a director, officer or trustee is holding office in contravention of this section shall order such person to terminate the interlocking relationship, and in the case of a trustee, the court may, when it deems appropriate, order the state attorney general to institute proceedings for the removal of such trustee from his office, and the findings of the court of such violation of this section by such trustee shall be a sufficient cause of action to maintain such proceeding. Any remedy provided in this section shall not limit and is in addition and cumulative to any other remedy available under any other section of this Act or any other law.

**SECTION 7. Monopolization.** No person shall monopolize, or attempt to monopolize or combine or conspire with any other person to monopolize any part of the trade or commerce in any commodity in any section of the State.

**SECTION 8. Exemption of Labor Organizations.** The labor of a human being is not a commodity or article of commerce. Nothing contained in this Act shall be construed to forbid the existence and operation of labor organizations, instituted for the purpose of mutual help, and not having

capital stock or conducted for profits, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, lawfully carrying out the legitimate objects thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under this Act.

The provisions of this Act shall not apply to the conduct or activities of labor organizations or their members which conduct or activities are regulated by federal or state legislation or over which the National Labor Relations Board or the Hawaii Employment Relations Board have jurisdiction.

**SECTION 9. Exemption of certain cooperative organizations; insurance transactions; approved mergers of federally regulated companies.** (1) Nothing contained in this Act shall be construed to forbid the existence and operation of fishery or agricultural cooperative organizations or associations instituted for the purpose of mutual help, and which are organized and operating under Chapters 175A or 176, Revised Laws of Hawaii 1955, as amended, or which conform and continue to conform to the requirements of the Capper-Volstead Act (7 U.S.C. 291 and 292), provided that if any such organization or association monopolizes or restrains trade or commerce in any section of this State to such an extent that the price of any fishery or agricultural product is unduly enhanced by reason thereof the provisions of this Act shall apply to such acts.

(2) This Act shall not apply to any transaction in the business of insurance which is in violation of any section of this Act if such transaction is expressly permitted by the insurance laws of this State; and provided further that nothing contained in this section shall render this Act inapplicable to any agreement to boycott, coerce, or intimidate or act of boycott, coercion or intimidation.

(3) This Act shall not apply to mergers of companies where such mergers are approved by the federal regulatory agency which has jurisdiction and control over such mergers.

**SECTION 10. Contracts void.** Any contract or agreement in violation of this Act is void and is not enforceable at law or in equity.

**SECTION 11. Suits by persons injured; amount of recovery, injunctions.** (1) Any person who is injured in his business or property by reason of anything forbidden or declared unlawful by this Act:

(a) may sue for damages sustained by him, and, if the judgment is for the plaintiff, he shall be awarded threefold damages by him sustained and reasonable attorneys' fees together with the costs of suit; and

(b) may bring proceedings to enjoin the unlawful practices, and if the decree is for the plaintiff, he shall be awarded reasonable attorneys' fees together with the cost of suit.

(2) The remedies provided in this section are cumulative and may be sought in one action.

**SECTION 12. Suits by the State; amount of recovery.** Whenever the State of Hawaii, any county, or city and county is injured in its business or property by reason of anything forbidden or declared unlawful by this Act, it may sue to recover actual damages sustained by it. The attorney general may bring an action on behalf of the State or any of its political subdivisions or governmental agencies to recover the damages provided for by this section, or by any comparable provisions of federal law.

**SECTION 13. Injunction by attorney general.** The attorney general may bring proceeding to enjoin any violation of the provisions of this Act.

**SECTION 14. Violation a misdemeanor.** (1) Any person who violates any of the provisions of Sections 2, 4, 7 or 15 of this Act, including any principal, manager, director, officer, agent, servant or employee, who had engaged in or has participated in the determination to engage in an activity that has been engaged in by any association, firm, partnership, trust, or corporation, which activity is a violation of any provision of Sections 2, 4, 7 or 15 of this Act, is punishable if a natural person by a fine not exceeding \$10,000 or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court; if such person is not a natural person then by a fine not exceeding \$20,000.

(2) The actions authorized by this section and Section 16 shall be brought in the circuit court of the circuit where the offense occurred.

**SECTION 15. Individual liability for corporate act.** Whenever a corporation violates any of the penal provisions of this Act, such violation shall be deemed to be also that of the individual directors, officers, or agents of such corporation who have authorized, ordered or done any of the acts constituting in whole or in part such violation.

**SECTION 16. Investigation.** (1) Whenever it appears to the attorney general, either upon complaint or otherwise, that any person or persons, has engaged in or engages in or is about to engage in any act or practice by this Act prohibited or declared to be illegal, or that any person or persons, has assisted or participated in any plan, scheme, agreement or combination of the nature described herein, or whenever he believes it to be in the public interest that an investigation be made, he may in his discretion either require or permit such complainant to file with him a statement in writing under oath or otherwise as to all the facts and circumstances concerning the subject matter which he believes to be in the public interest to investigate. The attorney general may also require such other data and information from such complainant as he may deem relevant and may make such special and independent investigations as he may deem necessary in connection with the matter.

(2) Whenever the attorney general has reason to believe that any person may be in possession, custody, or control of any documentary material, objects, tangible things or information (hereinafter referred to as "documentary evidence") pertinent to any investigation of a possible violation of this Act and before the filing of any complaint in court, he may issue in writing, and cause to be served upon such person, an investigative demand requiring such person to produce such documentary evidence for examination.

(3) Each such demand shall:

(a) state that an alleged violation of the section or sections of this Act which are under investigation;

(b) describe and fairly identify the documentary evidence to be produced, or to be answered;

(c) prescribe a return date within a reasonable period of time during which the documentary evidence demanded may be assembled and produced;

(d) identify the custodian to whom such documentary evidence are to be delivered; and

(e) specify a place at which such delivery is to be made.

(4) No such demand shall :

(a) contain any requirement which would be held to be unreasonable if contained in a subpoena duces tecum issued by a court of this State in aid of a grand jury investigation of such possible violation ; or

(b) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpoena duces tecum issued by a court of this State in aid of a grand jury investigation of such possible violation.

(5) Any such demand may be served by any attorney employed by or other authorized employee of this State at any place within the territorial jurisdiction of any court of this State.

(6) Service of any such demand or of any petition filed under subsection 15 of this section, may be made upon a partnership, trust, corporation, association, or other legal entity by :

(a) delivering a duly executed copy thereof to any partner, trustee, executive officer, managing agent, or general agent thereof, or to any agent, thereof authorized by appointment or by law to receive service or process on behalf of such partnership, trust, corporation, association, or entity ; or

(b) delivering a duly executed copy thereof to the principal office or place of business in this State of the partnership, trust, corporation, association, or entity to be served ; or

(c) depositing such copy in the United States mails, by registered or certified mail duly addressed to such partnership, trust, corporation, association or entity at its principal office or place of business in this State.

(7) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or petition.

(8) The attorney general shall designate a representative to serve as custodian of any documentary evidence, and such additional representatives as he shall determine from time to time to be necessary to serve as deputies to such officer.

(9) Any person upon whom any demand issued under subsection (2) has been duly served shall deliver such documentary evidence to the custodian designated therein at the place specified therein (or at such other place as such custodian thereafter may prescribe in writing) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). No such demand or custodian may require delivery of any documentary evidence to be made :

(a) at any place outside the territorial jurisdiction of this State without the consent of the person upon whom such demand was served ; or

(b) at any place other than the place at which such documentary evidence is situated at the time of service of such demand until the custodian has tendered to such person a sum sufficient to defray the cost of transporting such material to the place prescribed for delivery or the transportation thereof to such place at government expense.

(10) The custodian to whom any documentary evidence is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this section. The custodian shall issue a receipt for such evidence received. The custodian may cause the preparation of such copies of such documentary evidence as may

be required for official use by any individual who is entitled, under regulations which shall be promulgated by the attorney general, to have access to such evidence for examination. While in the possession of the custodian, no such evidence so produced shall be available for examination, without the consent of the person who produced such evidence, by any individual other than a duly authorized representative of the office of the attorney general. Under such reasonable terms and conditions as the attorney general shall prescribe, documentary evidence while in the possession of the custodian shall be available for examination by the person who produced such evidence or any duly authorized representative of such person.

(11) Whenever any attorney has been designated to appear on behalf of this State before any court or grand jury in any case or proceeding involving any alleged violation of this Act, the custodian may deliver to such attorney such documentary evidence in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of this State. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary evidence so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

(12) Upon the completion of the investigation for which any documentary evidence was produced under this section, and any case or proceeding arising from such investigation, the custodian shall return to the person who produced such evidence all such evidence (other than copies thereof made by the attorney general or his representative pursuant to subsection (10) of this section) which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.

(13) When any documentary evidence has been produced by any person under this section for use in any investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the court of such investigation, such person shall be entitled, upon written demand made upon the attorney general to the return of all documentary evidence (other than copies thereof made by the attorney general or his representative pursuant to subsection (10) of this section) so produced by such person.

(14) In the event of the death, disability, or separation from service in the office of the attorney general of the custodian of any documentary evidence produced under any demand issued under this section, or the official relief of such custodian from responsibility for the custody and control of such evidence, the attorney general shall promptly designate another representative to serve as custodian thereof, and transmit notice in writing to the person who produced such evidence as to the identity and address of the successor so designated. Any successor so designated shall have with regard to such evidence all duties and responsibilities imposed by this section upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

(15) Whenever any person fails to comply with any investigative demand duly served upon him under subsection (6) of this section, the attorney

general, through such officers or attorneys as he may designate, may file, in the district court of any county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of such demand, except that if such person transacts business in more than one such county such petition shall be filed in the county in which such person maintains his principal place of business, or in such other county in which such person transacts business as may be agreed upon by the parties to such petition. Such person shall be entitled to be heard in opposition to the granting of any such petition.

(16) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the county within which the office of the custodian designated therein is situated, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section, or upon any constitutional right or privilege of such person.

If the court does not set aside such demand, such person shall be assessed court cost and reasonable attorneys' fees and such other penalties not greater than those specified under Section 14 of this Act. If the Court sets aside such demand, such person shall be given the total cost of such petition.

(17) At any time during which any custodian is in custody or control of any documentary evidence delivered by any person in compliance with any such demand, such person may file, in the district court of the county within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

(18) Whenever the attorney general has reason to believe that any person has information pertinent to any investigation of a possible violation of this Act and before the filing of any complaint in court, he may seek a subpoena from the clerk of the district court in the county where such person resides, is found or transacts business, requiring his presence to appear before a district magistrate licensed to practice law in the Supreme Court of this State to give oral testimony under oath on a specified date, time and place. The clerk of the district court may also issue a subpoena duces tecum under like conditions at the request of the attorney general. Any witness subpoenaed shall be entitled to be represented by counsel and any subpoena shall state the alleged violation of the section or sections of this Act. The scope and manner of examination shall be in accordance with the rules governing depositions as provided in the Hawaii Rules of Civil Procedure. The person subpoenaed may at any time before the date specified for the taking of the oral testimony, move to quash any subpoena before said district magistrate from whose court any subpoena was issued for such grounds as may be provided for quashing a subpoena in accordance with the rules governing depositions as set forth in the Hawaii Rules of Civil Procedure.

(19) No person shall be excused from attending an inquiry pursuant to the mandates of a subpoena, or from producing any documentary evidence, or from being examined or required to answer questions on the ground of failure to tender or pay a witness fee or mileage unless demand therefor is made at the time testimony is about to be taken and as a condition precedent to offering such production or testimony and unless payment thereof be not thereupon



made. The provisions for payment of witness fee and mileage do not apply to any officer, director or person in the employ of any person or persons whose conduct or practices are being investigated. No person who is subpoenaed to attend such inquiry, while in attendance upon such inquiry, shall, without reasonable cause, refuse to be sworn or to answer any question or to produce any book, paper, document, or other record when ordered to do so by the officer conducting such inquiry, or fail to perform any act hereunder required to be performed.

(20) Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part, by any person with any investigative demand made under this section, wilfully removes from any place, conceals, withholds, destroys, mutilates, alters, or by any other means falsifies any documentary evidence in the possession, custody or control of any person which is the subject of any such demand duly served upon any person shall be fined not more than \$5,000.00 or imprisoned not more than one year, or both. Any person wilfully failing to comply with a subpoena issued pursuant to subsection (18) of this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(21) Nothing contained in this section shall impair the authority of the attorney general or his representatives to lay before any grand jury impaneled before any circuit court of this State any evidence concerning any alleged violation of this Act, invoke the power of any such court to compel the production of any evidence before any such grand jury, or institute any proceeding for the enforcement of any order or process issued in execution of such power, or to punish disobedience of any such order or process by any person.

(22) As used in this section the term "documentary material" includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

(23) It shall be the duty of all public officers, their deputies, assistants, clerks, subordinates and employees to render and furnish to the attorney general, his deputy or other designated representatives when so requested, all information and assistance in their possession or within their power.

(24) Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall wilfully disclose to any person other than the attorney general the name of any witness examined or any other information obtained upon such inquiry, except as so directed by the attorney general shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

(25) The enumeration and specification of various processes do not preclude or limit the use of processes under the Hawaii Rules of Civil Procedure but are deemed to be supplementary to said rules or the use of any other lawful investigative methods which are available.

**SECTION 17. Additional parties defendant.** Whenever it appears to the court before which any civil proceeding under this Act is pending that the ends of justice require that other parties be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside, engage in business, or have an agent, in the circuit where such action is pending.

**SECTION 18. Duty of the attorney general; duty of county attorney, etc.** (1) The attorney general shall enforce the criminal and civil provisions of this Act. The county attorney of any county, the prosecuting attorney

and the corporation counsel of the city and county shall investigate and report suspected violations of the provisions of this Act to the attorney general.

(2) Whenever the provisions of this Act authorize or require the attorney general to commence any action or proceeding, including proceedings under Section 16 of this Act, the attorney general may require the county attorney, prosecuting attorney, or corporation counsel, of any county or city and county, holding office in the circuit where the action or proceeding is to be commenced or maintained, to maintain the action or proceeding under the direction of the attorney general.

**SECTION 19. Court and venue.** Any action or proceeding, whether civil or criminal, authorized by the provisions of this Act shall be brought in the circuit court for the circuit in which the defendant resides, engages in business, or has an agent, unless otherwise specifically provided herein.

**SECTION 20. Judgment in favor of the State as evidence in private action; suspension of limitation.** (1) A final judgment or decree rendered in any civil or criminal proceeding brought by the State under the provisions of this Act shall be prima facie evidence against such defendant in any action or proceeding brought by any other party under the provisions of this Act, or by the State, county or city and county, under Section 12, against such defendant as to all matter respecting which said judgment or decree would be an estoppel as between the parties thereto. This section shall not apply to consent judgments or decrees entered before any complaint has been filed; provided, however, that when a consent judgment or decree is filed, the state attorney general shall set forth at the same time the alleged violations and reasons for entering into the consent judgment or decree. No such consent judgment or decree shall become final until sixty days from the filing of such consent judgment or decree or until the final determination of any exceptions filed, as hereinafter provided, whichever is later. During such sixty day period any interested party covered under Section 11 of this Act may file verified exceptions to the form and substance of said consent judgment or decree, and the court, upon a full hearing thereon may approve, refuse to enter, or may modify such consent judgment or decree.

(2) A plea of nolo contendere in any criminal action under this Act shall have the effect of admitting each and every material allegation in the complaint, and a final judgment or decree rendered pursuant to such plea shall be prima facie evidence against such defendant in any action or proceeding brought by any other party under the provisions of this Act, or by the State, county or city and county, under Section 12 against such defendant as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto.

(3) Whenever any civil or criminal proceeding is instituted by the State to prevent, restrain, or punish violations of any provisions of this Act, but not including an action under Section 12, the running of the statute of limitations in respect of every private right of action arising under said laws and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter.

**SECTION 21. Immunity from prosecution.** (1) In any investigation brought by the attorney general pursuant to Section 16 of this Act, no individual shall be excused from attending, testifying, or producing documentary materials, objects or tangible things in obedience to an investigative demand, subpoena or under order of court on the ground that the testimony

or evidence required of him may tend to incriminate him or subject him to any penalty.

(2) No individual shall be criminally prosecuted or subjected to any criminal penalty under this Act for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence in any investigation brought by the attorney general pursuant to Section 16 of this Act, or any county attorney, prosecuting attorney, or corporation counsel of any county or city and county, provided no individual so testifying shall be exempt from prosecution or punishment for perjury committed in so testifying.

**SECTION 22. Limitation of actions.** Any action to enforce a cause of action arising under the provisions of this Act shall be barred unless commenced within four years after the cause of action accrues, except as otherwise provided in Section 20 of this Act. For the purpose of this section, a cause of action for a continuing violation is deemed to accrue at any time during the period of such violation.

**SECTION 23. Severability.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the remainder of this Act and each and every other provision thereof shall not be affected thereby.

**SECTION 24. Effective Date.** This Act shall take effect on August 21, 1961.

(Approved July 12, 1961.) **H.B. 27.**

## ACT 191

A Bill for an Act Relating to the Relief of Certain Persons, Firms and Corporations for Overpayment of Taxes, to Remit Taxes, and Other Claims Against the State, and Providing Appropriations Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of reimbursing the following named persons, firms, and corporations for overpayment of taxes, or on account of other claims against the State in the amount set opposite their respective names:

ARAKAKI, NORMAN S. ....	\$ 82.86
Refund of portion of real property taxes overpaid for years 1957 through 1959.	
AUYONG, ALBERT A. ....	<del>31.29</del>
Refund of portion of real property taxes overpaid for years 1931 to 1957.	[Item vetoed, W.Q.]
AWONG, ABEL .....	700.00
Damage or loss of personal property resulting from performance of state duties during the Hilo tsunami disaster of 1960.	
BALL, MARY JANE (Tax Key 4-5-12-17).....	43.51
Refund of real property taxes overpaid for years 1959 and 1960.	
BARROS, ROSE .....	25.00
Refund of real property tax overpaid for year 1957.	
BELLAH, CLAUDE .....	<del>33.50</del>
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	[Item vetoed, W.Q.]

BICKNELL, CLAIR (Tax Key 4-4-04-12).....	168.61
Refund of real property taxes overpaid for years 1959 and 1960.	
CAMPOS, FERNANDO C. (Tax Key 4-6-13-14).....	10.30
Refund of real property taxes overpaid for years 1959 and 1960.	
CHING, JAMES .....	165.02
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
CHOW, ROBERT Y. S.....	<del>46.00</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
CHUN, CLEMENT .....	138.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
DESHA, GODFREY B.....	<del>378.95</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
DUNN, MARGARET E. ....	12.64
Refund of real property taxes overpaid for the years 1955 to 1958.	
FERREIRA, ISABELLA M. ....	25.00
Refund of real property tax overpaid for year 1957.	
FERREIRO, WILLIAM F. (Tax Key 4-4-03-11).....	77.20
Refund of real property taxes overpaid for years 1959 and 1960.	
FERREIRO, WILLIAM F. (Tax Key 4-5-13-05).....	14.87
Refund of real property taxes overpaid for years 1959 and 1960.	
FREITAS, WILLIAM R.....	<del>1.75</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
FULLARD-LEO, LESLIE .....	175.32
Remission of portion of real property taxes assessed for year 1959—August 22 to December 31, 1959.	
FURUTANI, TERUJI .....	1,889.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
GABRIEL, WILLIAM .....	600.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
GRAYBAR ELECTRIC COMPANY, INC.....	<del>3,603.33</del>
	[Item vetoed, W.Q.]
Refund of foreign corporation license fee paid during the period September 19, 1927 to June 30, 1959.	
GRUGIER, MERCY K. ....	329.00
Refund of portion of real property taxes paid for years 1938 to 1954.	
GUALDARAMA, FERMIN L. C.....	<del>300.00</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
HAPAI, ARCHIE .....	150.18
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
HAWAIIAN TELEPHONE COMPANY.....	6,702.22
Refund of public utility taxes paid for years 1957 and 1958.	
HAWAIIAN VILLAGE, INC. ....	300.00
Refund of foreign license fees paid for years 1956, 1957 and 1958.	
HAY, GILBERT .....	543.25
Refund of real property taxes overpaid for the years 1959 and 1960.	
HAYASHIDA, TOSHIAKI .....	<del>28.00</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	

HEDANI, AKIRA (Tax Key 9-8-20-46).....	153.60
Refund of real property taxes overpaid for the years 1959 and 1960.	
HORNER, ALBERT (Tax Key 4-3-02-03).....	335.89
Refund of real property taxes overpaid for the years 1959 and 1960.	
HOSSACK, A. T. ....	10.94
Payment of territorial warrant number S-056075, dated March 6, 1957, escheated to general fund on June 30, 1959 pursuant to section 34-47, RLH 1955.	
HUSSEY, WILFRED K. ....	1,142.50
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
INOUE, HIROSHI .....	98.80
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
INOUE, YUKITOSHI (Tax Key 3-6-10-22).....	49.82
Refund of real property taxes overpaid for the years 1959 and 1960.	
ISHIZUKA, LESLIE (Tax Key 4-1-03-19).....	5.30
Refund of real property taxes overpaid for the years 1959 and 1960.	
ITO, GOICHI .....	150.35
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
JAMIESON, WILLIAM B. ....	84.49
Refund of portion of real property taxes overpaid for years 1958 and 1959.	
JELF, THOMAS J. ....	49.00
Payment of territorial warrant number P-093908, dated June 29, 1956, escheated to the general fund on June 30, 1959 pursuant to section 34-47, RLH 1955.	
KAHIKINA, SIMPSON, O. ....	436.21
Refund of real property taxes overpaid for years 1935, 1938, 1939, 1941, 1946, to 1959, inclusive.	
KALILI ESTATE, HELEN AWAI .....	319.31
Payment of territorial warrant number P-140233, dated December 28, 1956, escheated to the general fund on June 30, 1959 pursuant to section 34-47, RLH 1955.	
KASHIWABARA, KEIZO (Tax Key 2-5-02-12).....	142.31
Refund of real property taxes overpaid for the years 1959 and 1960.	
KAUAI ELECTRIC CO. LTD. ....	511.43
Refund of public utility taxes overpaid for years 1956, 1957, 1958 and 1959.	
KAWAKAMI, ARTHUR H. ....	18.00
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
KEAWE, ANNIE (Tax Key 4-6-27-02).....	88.21
Refund of real property taxes overpaid for years 1959 and 1960.	
KEAWE, ANNIE (Tax Key 4-6-27-12).....	23.67
Refund of real property taxes overpaid for years 1959 and 1960.	
KEAWE, ANNIE (Tax Key 4-6-27-16).....	11.27
Refund of real property taxes overpaid for years 1959 and 1960.	
KEAWE, ANNIE (Tax Key 4-6-27-27).....	.43
Refund of real property taxes overpaid for years 1959 and 1960.	
KEAWE, ANNIE (Tax Key 4-6-28-17).....	1.52
Refund of real property taxes overpaid for years 1959 and 1960.	
KEAWE, ANNIE (Tax Key 4-6-28-18).....	40.74
Refund of real property taxes overpaid for years 1959 and 1960.	
KEKAI, WILLIAM .....	51.50
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	

KEKUNA, LUCAS M.	21.50
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	[Item vetoed, W.Q.]
KIMURA, GUNTO, (Tax Key 2-3-03-13)	45.29
Refund of real property taxes overpaid for years 1959 and 1960.	
KIMURA, GUNTO, (Tax Key 2-3-03-40)	30.97
Refund of real property taxes overpaid for years 1959 and 1960.	
KIMURA, TATSUMI	350.00
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	[Item vetoed, W.Q.]
KODANI, SHIZUO	697.45
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
KONG, BENJAMIN F.	326.58
Refund of real property taxes overpaid for years 1956 and 1957 and first installment of 1958.	
KONO, HIDEO	47.74
Refund of real property taxes overpaid for year 1956.	
LOVELL, JOSEPH MANE, JR.	404.17
Refund of real property taxes overpaid for years 1948 to 1957.	
LYMAN, C. ARTHUR	202.16
Refund of real property taxes overpaid for years 1959 and 1960.	
LUCAS, DANIEL	803.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
MATSUMOTO, SADAICHI (Tax Key 2-4-02-04)	29.66
Refund of real property taxes overpaid for years 1959 and 1960.	
MATSUNAGA, TOSHIICHI (Tax Key 2-6-10-11)	160.25
Refund of real property taxes overpaid for years 1959 and 1960.	
MATSUNAGA, TOSHIICHI (Tax Key 2-6-09-37)	12.03
Refund of real property taxes overpaid for years 1959 and 1960.	
MATTOS, LOUIS A.	261.45
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	[Item vetoed, W.Q.]
MAU, ALICE N. K.	185.75
Refund of real property taxes overpaid for years 1957 to 1960.	
MAUNALANI HOSPITAL AND CONVALESCENT HOME	699.06
Refund of real property taxes paid for year 1958.	[Item vetoed, W.Q.]
MCCANDLESS ESTATE, L. L.	138.41
Refund of real property taxes paid for years 1942 to 1956.	
MEDEIROS, ERNEST	225.00
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	[Item vetoed, W.Q.]
MIYAHARA, HERBERT (Tax Key 2-8-08-24)	45.85
Refund of real property taxes paid for years 1959 and 1960.	
MIYAMOTO, GEORGE H.	87.27
Refund of real property taxes paid for years 1959 and 1960.	
MIYASATO, JOHN	340.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
MOIR, HECTOR (Tax Key 2-8-16-07)	85.21
Refund of real property taxes overpaid for years 1959 and 1960.	
MOIR, HECTOR (Tax Key 2-8-16-10)	32.40
Refund of real property taxes overpaid for years 1959 and 1960.	
MOIR, HECTOR (Tax Key 2-8-26-08)	563.48
Refund of real property taxes overpaid for years 1959 and 1960.	
MORGAN, CATHERINE (Tax Key 4-9-04-06)	35.41
Refund of real property taxes overpaid for years 1959 and 1960.	

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MORRIS, JUANITO (Tax Key 2-6-09-30).....	28.12
Refund of real property taxes overpaid for years 1959 and 1960.	
MOTTA, LOUIS R. ....	242.19
Refund of real property taxes paid for years 1956 and 1957.	
NAGOSHI, YUTAKA (Tax Key 2-3-08-34).....	51.56
Refund of real property taxes overpaid for years 1959 and 1960.	
NEMBETSU-DO ASSOCIATION .....	<del>1,443.11</del>
	[Item vetoed, W.Q.]
Refund of real property taxes paid for years 1954 to 1958.	
NAKAMATSU, YASU (Tax Key 2-6-10-20).....	41.93
Refund of real property taxes overpaid for years 1959 to 1960.	
NICHIREN SECT MISSION OF HAWAII.....	<del>208.94</del>
	[Item vetoed, W.Q.]
Refund of real property taxes paid for years 1959 and 1960.	
NISHIDA, TATSUMI .....	<del>744.65</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
OLIVER, VASCO .....	650.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
ORNELLAS, PETER (Tax Key 2-6-09-02).....	83.66
Refund of real property taxes overpaid for years 1959 and 1960.	
OSHIRO, ROBERT C. ....	220.45
Payment of territorial warrant number P-169341, dated March 29, 1957, escheated to the general fund on June 30, 1959 pursuant to section 34-47, RLH 1955.	
OTA, TETSUKICHI .....	<del>1,700.00</del>
	[Item vetoed, W.Q.]
Claim for destruction of property by state civil defense personnel imme- diately following the Hilo tsunami disaster of 1960.	
PAUL ANTHONY R., FOR OFFICERS G. DESHA, JOHN U. PEA, AND T. NISHIDA.....	<del>1,270.95</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
REESE, ARTHUR K. ....	125.00
Compensation ordered by the Governor's Grievance Review Committee.	
REIS, WILLIAM (Tax Key 2-6-09-06).....	84.55
Refund of real property taxes paid for years 1959 and 1960.	
REORGANIZED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS .....	<del>259.85</del>
	[Item vetoed, W.Q.]
Refund of real property tax overpaid for year 1957.	
RICKARD, RICHARD S.....	<del>500.00</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
ROSEHILL, EDWARD W. JR.....	<del>22.50</del>
	[Item vetoed, W.Q.]
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
SAWYER, HARRIET BOUSLOG .....	1,396.97
Reimbursement for legal expenses and court costs in case entitled "In the Matter of the Disciplinary Proceedings against Harriet Bouslog Sawyer, a member of the Territorial Bar of the Territory of Hawaii", No. 15,109, United States Circuit Court of Appeals of the Ninth Circuit.	
SHIMAMOTO, HISAO EST. (Tax Key 2-6-06-18).....	206.32
Refund of real property taxes overpaid for years 1959 and 1960.	
SHIMAMOTO, HISAO EST. (Tax Key 3-6-09-18).....	189.50
Refund for real property taxes overpaid for years 1959 and 1960.	
SHIMAMOTO, HISAO EST. (Tax Key 4-3-09-49).....	73.41
Refund for real property taxes overpaid for years 1959 and 1960.	

SHIMAMOTO, HISAO EST. (Tax Key 4-5-16-04).....	105.56
Refund for real property taxes overpaid for years 1959 and 1960.	
SHIMAZU, NAKA .....	7.22
Refund of portion of real property taxes overpaid for years 1955 to 1959.	
SHINSHU KYOKAI MISSION .....	<del>513.20</del>
[Item vetoed, W.Q.]	
Refund of real property taxes paid in 1960 for church property.	
SHOBUKAN JUDO CLUB.....	<del>149.32</del>
[Item vetoed, W.Q.]	
Refund of real property tax, interest and penalty for 1958.	
SILVA, JOHN D. (Tax Key 2-5-05-18).....	40.11
Refund of real property taxes overpaid for years 1959 and 1960.	
SILVA, JOSEPH E. (Tax Key 4-5-12-34).....	15.21
Refund of real property taxes overpaid for years 1959 and 1960.	
SOUZA, JEANETTE (Tax Key 2-3-13-05).....	28.45
Refund of real property taxes overpaid for years 1959 and 1960.	
TAGUMA, WALTON H.....	<del>87.90</del>
[Item vetoed, W.Q.]	
Refund of portion of real property taxes overpaid for years 1958, 1959 and 1960.	
TAKAKI, MADELINE (Tax Key 4-5-15-31).....	14.49
Refund of real property taxes overpaid for years 1959 and 1960.	
TAKEMOTO, MASAYUKI (Tax Key 4-6-04-13).....	12.25
Refund of real property taxes overpaid for years 1959 and 1960.	
TAO, MIKIYO M. (Tax Key 2-6-10-03).....	34.95
Refund of real property taxes overpaid for years 1959 and 1960.	
TAO, MIKIYO M. (Tax Key 2-6-02-06).....	41.65
Refund of real property taxes overpaid for years 1959 and 1960.	
TSUJI, TAKEO .....	236.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
VASQUES, MANUEL A. (Tax Key 4-6-20-27).....	70.17
Refund of real property taxes overpaid for years 1959 and 1960.	
VERIATO, JOSEPH, JR. ....	<del>150.00</del>
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
VETERANS OF FOREIGN WARS, ANDREW KING POST 3850.....	<del>177.17</del>
[Item vetoed, W.Q.]	
Refund of real property tax for the year 1953.	
VILLAROS, SARAH (Tax Key 2-4-05-104).....	2.04
Refund of real property taxes overpaid for years 1959 and 1960.	
WAGNER, EDWARD K.....	<del>135.51</del>
[Item vetoed, W.Q.]	
Damage or loss of personal property resulting from performance of Civil Defense duties during the Hilo tsunami disaster of 1960.	
WATANABE, STANLEY .....	400.00
Damage or loss of personal property resulting from performance of State duties during the Hilo tsunami disaster of 1960.	
WIGGINS, JAMES L. ....	86.30
Refund of portion of real property taxes paid for years 1955 to 1958.	
WILKINSON, WILLARD G. ....	4,500.00
Payment of claim against the State for injuries suffered by him in the elevator situated at Iolani Palace on January 10, 1957.	
YAMANOHA, VIVIAN S. (Tax Key 4-6-31-02).....	156.87
Refund of real property taxes overpaid for years 1959 and 1960.	
YAMASHIRO, TAKA (Tax Key 4-6-04-20).....	40.98
Refund of real property taxes overpaid for years 1959 and 1960.	
YAMASHIRO, TAKA (Tax Key 4-6-04-21).....	57.11
Refund of real property taxes overpaid for years 1959 and 1960.	
YAMATE, THEODORE T. (Tax Key 4-5-12-44).....	3.43
Refund of real property taxes overpaid for years 1959 and 1960.	



YAMATE, THEODORE T. (Tax Key 4-5-11-42).....	28.19
Refund of real property taxes overpaid for years 1959 and 1960.	
YEE, FEE WO.....	<del>258.90</del>
	[Item vetoed, W.Q.]
Refund of real property taxes paid for years 1956 and 1957.	
YONEJI, TAKEO (Tax Key 3-2-07-13).....	38.96
Refund of real property taxes overpaid for years 1959 and 1960.	
YONEJI, TAKEO (Tax Key 3-2-07-13).....	9.75
Refund of real property taxes overpaid for years 1959 and 1960.	
YONEJI, TAKEO (Tax Key 5-5-02-38).....	135.15
Refund of real property taxes overpaid for years 1959 and 1960.	

SECTION 2. The sums hereinabove appropriated shall be paid upon warrants issued by the comptroller of the State upon vouchers approved by the director of the department of taxation in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said comptroller upon vouchers approved by the director of the department of budget and review as to all other claims.

SECTION 3. If any portion of this Act or its application to any circumstances or person is held to be invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 12, 1961.) **H.B. 1091.**

## ACT 192

An Act Relating to Airports and Authorizing the Issuance of General Obligation Bonds Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The department of budget and review is hereby authorized to issue state general obligation bonds, and in the manner provided by law, in the sum of \$4,000,000, or so much thereof as may be necessary for the completion of terminal buildings, concourse and landscaping and construction of necessary maintenance buildings.

The proceeds of such bond sale, or so much thereof as may be necessary, are hereby appropriated to the department of transportation. The department of transportation shall pay to the department of budget and review, on such dates and in such amounts as may be specified by the director of the budget, such sums as may be necessary to amortize the issuance of the bonds.

SECTION 2. The department of budget and review shall not issue any portion of the bonds authorized by section 1 of this Act until the contracts, leases or other arrangements which are to be entered into between the department of transportation and any person, firm or corporation, shall have been reviewed and approved by the department of budget and review. The department of budget and review shall, in granting its approval, take into consideration the financial benefits to be derived by the State in entering into such contracts, leases or other arrangements.

SECTION 3. The authorization or appropriation, or any portion thereof, which is unissued, unallotted or unencumbered on June 30, 1963 shall lapse.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 13, 1961.) **S.B. 901.**

## ACT 193

An Act Relating to Veterans' Mortgages and Providing for the Issuance of General Obligation Bonds to Obtain Funds Therefor.

*Be it Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Purpose.** It is the purpose of this Act to authorize the issuance of an additional [~~\$10,000,000~~]~~\$~~5,000,000\* in bonds to make funds available to purchase veterans' mortgages, to raise the limit on the unpaid balance of a mortgage which can be purchased from \$15,000 to \$22,500, to restrict eligibility to veterans who were residents of Hawaii upon entering military service and who have not previously received a like housing benefit, and to make other changes required by statehood and reorganization.

**SECTION 2.** Chapter 350 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by deleting the words "treasurer" and "territory" wherever they appear in the chapter and by inserting in lieu thereof, except where otherwise amended, the words "director" and "state" respectively.

**SECTION 3.** Chapter 350 of the Revised Laws of Hawaii 1955, as amended, is hereby further amended in the following respects:

(1) In section 350-1 by striking the phrase "'treasurer' means the treasurer of the territory;" and inserting in lieu thereof:

"'Director' means the director of the budget;"

(2) In section 350-2, as amended, by deleting the phrase "the market value thereof at the date of the written commitment of such purchase" and inserting in lieu thereof "that which is necessary to encourage the construction of veterans' housing but not in excess of the unpaid principal balance plus accrued and unpaid interest at the date of the purchase or commitment contract for purchase";

(3) In section 350-3 as follows:

(i) by deleting the date "July 1, 1954" from both places in item (a) and inserting in lieu thereof "July 1, 1961" in both places;

(ii) by deleting the number "15,000" from item (b) and inserting in lieu thereof the number "22,500"; and

(iii) by inserting two new items immediately following the item lettered "(f)" to read and to be designated as follows:

"(g) If the veteran was not a resident of the territory or State of Hawaii at the time he enlisted or was inducted or commissioned into the armed forces of the United States.

(h) If under this chapter or under the Servicemen's Readjustment Act of 1944, as amended, the veteran has previously been granted a direct loan or had any home mortgage guaranteed, insured or purchased.";

(4) In section 350-9 as follows:

(i) By amending the first paragraph to read as follows:

**"Section 350-9. Bonds.** In addition to the \$20,000,000 issued by the treasurer of the territory, the director may issue from time to time general obligation bonds of the State to an amount not exceeding [~~\$10,000,000~~]~~\$~~5,000,000\* in the manner provided for by part I of chapter 137. The proceeds of such bonds shall be used solely for the making or purchase of veterans' mortgages as provided in this chapter."

(iii) By deleting the word "territorial" from both the first and second sen-

\* Items reduced, W. Q.

tences of the second paragraph and inserting in lieu thereof the word "State" in both places;

(5) In section 350-12 by deleting the phrase "office of the treasurer" from the first paragraph and inserting in lieu thereof the phrase "department of budget and review" and by deleting the words "treasurer's" and "territorial" from the second paragraph and inserting in lieu thereof the words "director's" and "State" respectively; and

(6) By amending section 350-14 to read as follows:

**"Section 350-14. Allotments.** The director shall allocate from the new bond issue of [~~\$10,000,000~~] \$5,000,000 the sum of [~~\$5,500,000~~] \$2,750,000 for loans to veterans residing on Oahu, [~~\$2,000,000~~] \$1,000,000 for loans to veterans residing on Hawaii, [~~\$1,500,000~~] \$750,000 for loans to veterans residing on Maui and [~~\$1,000,000~~] \$500,000 for loans to veterans residing on Kauai.\* These allocations of funds remain in effect for a period of two years following the effective date of this act. Any balance remaining in each of the funds at the end of such two year period shall be placed in a single fund and shall be made available to veterans on first come first serve basis.

SECTION 4. The proceeds of the bond issue of [~~\$10,000,000~~] \$5,000,000\* authorized by this Act shall be used only to purchase veterans' mortgages issued and processed after the enactment of this Act.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 13, 1961.) **S.B. 7.**

## ACT 194

A Bill for an Act to Make Available Additional Mortgage Investment Funds to Meet the Capital Needs of the State by Providing for Home Loans for Middle Income Home Buyers on State Lands and for Loans Made by Foreign Lenders and Certain Other Activities of Such Lenders and Making Inapplicable Certain Statutory Provisions.

*Be it Enacted by the Legislature of the State of Hawaii:*

### **PART I. Findings and Declaration of Purpose.**

SECTION 1. **Findings and Purpose.** The capital needs of the economy of the State have grown to such an extent that available local capital is insufficient to meet those needs. Among the consequences of the inability of Hawaii to meet its capital requirements out of its own local funds have been a shortage of mortgage funds for home and commercial financing. Moreover, in consequence of the extremely high price of home ownership in Hawaii a buyer has to pay large down and monthly payments which many middle income home buyers find difficult to meet. The purpose of this Act is to help remedy the shortage of mortgage investment funds with which Hawaii is faced; first, by making available loans to provide added capital with which qualified applicants can meet required down payments for home construction and to extend the normal terms of loans over a longer period of time, and second, by attracting out-of-state mortgage funds to Hawaii.

\* Items reduced, W. Q.

**PART II. Home Loans for Middle Income Home Buyers on State Lands.**

**SECTION 2. Authorization for loans.** The director of the budget may grant loans as provided for in this Part to persons leasing or purchasing state lands for their personal residential needs. Loans may be granted only to eligible persons as provided for in this Part who occupy state land by virtue of leases or agreements of sale executed after the effective date of this Act.

**SECTION 3. Qualifications for loans.** To qualify for a loan under this Part an applicant must:

(a) Be of legal age and have at least one person who will occupy the premises with him and who is related to him by blood or marriage and solely dependent upon him for support. A husband and wife, who are both employed, shall jointly qualify for a loan;

(b) Be a resident of the State for not less than one year immediately preceding the application for the loan;

(c) Have a gross annual income not in excess of \$7,000 including the gross income of his spouse; and

(d) Have such other qualifications as may be established by the director of the budget.

**SECTION 4. Purpose for and terms of loans.** Loans of state funds made pursuant to this Part may be granted only for construction of residences upon the said premises. Loans shall be secured by a mortgage which may be subordinate only to another mortgage given to a lending institution as security for a loan for the purpose provided above. Loans shall be made to relieve the burden of the required down payment or to extend the period over which monthly payments would be required upon a finding that the applicant's income would not otherwise reasonably support such payments.

Loans shall not exceed 25 per cent of the cost of the improvements and in no case shall any loan exceed \$5,000. The director of the budget shall by appropriate regulation establish the interest rate on the state loan and may authorize repayment upon such terms as he deems appropriate but in no case shall the payments extend beyond 40 years.

**SECTION 5. Contract with lending institution.** The director of the budget may, and as far as practicable shall, contract with lending institutions for the processing of applications for loans of state funds and the servicing of such loans. Such servicing shall be performed only by the lending institution which makes the loan for the principal cost of construction. In furtherance of the purposes of this Part the contract may provide for the loan of state funds to be repaid after the funds of the lending institution are repaid in full and for payment to lending institutions for servicing the state's portion of the total loan and may include other terms deemed appropriate by the director of the budget.

**SECTION 6. Rules and regulations.** The director of the budget may adopt, amend or repeal such rules and regulations governing the granting of loans and other related functions as he deems necessary or suitable. Such rules and regulations and any amendments thereto, when approved by the governor and promulgated and filed in accordance with sections 7-28 through 7-41 of the Revised Laws of Hawaii 1955 shall have the force and effect of law.

**SECTION 7. Bond authorization.** The director of the budget may with the approval of the governor, issue from time to time general obligation

bonds pursuant to part I of Chapter 137 of the Revised Laws of Hawaii 1955 not exceeding [~~\$1,000,000~~] \$500,000 for the granting of loans pursuant to the purposes of this Part. [item reduced, W.Q.]

### **PART III. Loans made by Foreign Lenders and Certain Other Activities of Such Lenders.**

#### **SECTION 8. Definitions as used in this Part:**

(a) "State" means any of the United States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, and Virgin Islands.

(b) "Foreign Lender" means (i) a member bank of the Federal Reserve System, an "insured bank" as defined in the Federal Deposit Insurance Act, an "insured institution", as defined in the Federal Savings and Loan Insurance Corporation Act, or an insurance company, the principal office of which is in another state, whether incorporated or unincorporated and whether acting in its individual capacity or in a fiduciary capacity, (ii) the trustee or trustees from time to time in office of any employee benefit plan, and (iii) any corporation all of the capital stock of which (except directors' qualifying shares) is owned by one or more foreign lenders of the classes specified in clauses (i) and (ii) of this subsection, but the term "foreign lender" does not include any similar organization organized under the laws of the United States or any small loan or industrial loan company of the general character covered by Chapters 194 and 195 respectively of the Revised Laws of Hawaii 1955, as amended.

(c) The term "employee benefit plan" means any plan, fund or program which was heretofore or is hereafter established in and under the laws of a state other than Hawaii by an employer or by an employee organization, or both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or annuity contracts or otherwise, medical, surgical or hospital care or benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement. As used in the preceding sentence, the term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan or other matters incidental to employment relationships or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

(d) "Loans" mean obligations secured by liens upon real property, or any interest in real property, situated in this State, which liens may also cover such personal property as is or may from time to time be affixed or attached to or located on or in or about such real property or any improvements thereon or thereto, and include obligations secured by liens upon real property or interests therein situated both within and without this State.

**SECTION 9. Exemptions and Immunities.** A foreign lender which (i) does not maintain a place of business in this State, (ii) conducts its principal activities outside this State, and (iii) complies with the provisions of this Part, does not by engaging in this State in any or all of the activities specified in the following section violate the laws of this State relating to doing business or doing a banking, trust or insurance business, or become subject to the provisions of Chapters 135, 174, 177, 178, 179, 180 or 181, or become subject to any

taxation which would otherwise be imposed for doing business in or doing a banking trust or insurance business in, or having gross income or receipts from sources in, property in, or the conduct of any activity in, this State, or become subject to any taxation under Chapters 117, 121 or 127, and no income or receipts of any such foreign lender arising out of any of the activities specified in the following section shall constitute income from sources in, property in, or activities conducted in this State for the purposes of any tax imposed by this State, provided that nothing in this Part shall be construed to exempt the real property of a foreign lender from taxation to the same extent, according to its value, as other real property is taxed, or to preclude the inclusion of the dividends or other income from foreign lenders in the income of individuals taxable under Chapter 121 to the same extent as is included dividends and other income from domestic lenders, and provided, further, that if any such foreign lender shall acquire any property in this State in enforcement of the rights of the foreign lender in the event of a default by any borrower, as permitted by subsection (d) of Section 10 of this act, then commencing one year after title to such property has vested in the foreign lender, the rents or other receipts received by the foreign lender from, and the proceeds of sale by the foreign lender of, such property shall be subject to taxation under Chapters 117 and 121 in the same manner and to the same extent as if such rents, other receipts or proceeds were received by a resident of this State.

**SECTION 10. Permitted Activities.** The activities referred to in the preceding section are:

- (a) making loans;
- (b) receiving security for loans;
- (c) acquiring by assignment or otherwise partial or entire interests in loans or in security for loans;
- (d) servicing (but servicing only by or through individuals who are residents of, or corporations doing business in, this State), collecting, enforcing or otherwise realizing upon loans or upon security for loans or upon interests therein; and taking, holding and disposing of any property acquired (whether by purchase at any sale pursuant to foreclosure by suit or foreclosure under power of sale, or by foreclosure by entry, or by conveyance in lieu of foreclosure) in enforcement of the rights of the foreign lender in the event of default by any borrower; and
- (e) employing agents and servants or in connection with, and entering into and performing contracts and doing other acts and things necessary or appropriate for or preliminary or incident to, any of the foregoing activities, but not maintaining any office in this State for the conduct of any such activities.

**SECTION 11. Filing and Effect of Statement.** Prior to engaging in this State in any of the activities specified in the preceding section a foreign lender shall execute and file with the treasurer of the State a statement. The statement shall list its name, state of incorporation or organization and principal place of business, shall certify that its principal activities are conducted outside this State, and shall appoint irrevocably the treasurer of the State and his successors its agents upon whom may be served process against it on any proceeding or cause of action arising out of its engaging in this State in any of the activities referred to in the preceding section. Until the statement is filed the immunities provided by this Part do not become operative. Upon the filing of the statement and after a determination by the treasurer that

the foreign lender qualifies for exemption under this Part the immunities provided by this Part shall continue operative until the statement is withdrawn by the foreign lender or cancelled by the treasurer of the State pursuant to Section 12 of this act, but no such withdrawal or cancellation shall retroactively affect or impair any of the immunities provided by this Part.

#### **SECTION 12. Cancellation of Statement.**

(a) If after notice and hearing as hereinafter provided, the treasurer of the State shall determine that any foreign lender having on file a statement as provided in Section 11 of this act (i) maintains an office in this State, (ii) conducts its principal activities in this State, or (iii) is or was formed or availed of by or for the account or benefit, directly or indirectly, of one or more residents of, corporations organized under the laws of, or employee benefit plans organized or having their principal offices in, this State with a view to avoiding the imposition of any taxes imposed by this State, the treasurer shall by order cancel such foreign lender's statement.

(b) In giving notice of and conducting hearings, and in making and entering orders, pursuant to subsection (a) of this Section 12, the treasurer shall have all of the powers conferred upon the Commission of Insurance by, and shall observe and comply with, and such hearings shall be conducted at the time or times and in the manner specified in, and subject in all respects to, the provisions of sections 181-51 to 181-53, both inclusive, 181-60 (exclusive of subsection 3 of Section 181-60), and 181-62 to 181-67, both inclusive. Appeals from orders made and entered pursuant to subsection (a) of this Section 12 may be taken at the time and in the manner and to the courts provided in, and shall in all respects be subject to the provisions of, Sections 181-68 to 181-71, both inclusive, subsections 1 and 2 of Section 181-72, and Section 181-73.

**SECTION 13. Construction.** Nothing in this Part shall be construed to require any corporation to qualify to do business in this State, or to subject any person, firm, corporation or trust to taxation under any law of this State if, but for the enactment of this act, such person, firm, corporation or trust would not have been required so to qualify or be subject to such taxation.

#### **PART IV. General Provisions.**

**SECTION 14. Severability.** If any section, clause or phrase of this act or the application thereof to any circumstances is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this act or the application of the section, clause or phrase to other circumstances. The Legislature hereby declares that it would have approved this act and each section, clause or phrase thereof irrespective of the fact that any one or more other sections, clauses or phrases or the application thereof to any circumstance be declared unconstitutional or invalid.

**SECTION 15. Effective Date.** This act shall take effect upon its approval.

(Approved July 13, 1961.) **H.B. 4.**

## ACT 195

An Act Relating to Public Improvements and the Financing Thereof, Making Appropriations for Public Improvements and Plans Related Thereto Out of the General Revenues, Authorizing Expenditures from Special Funds and Revenue Bond Funds, and Providing for the Issuance of General Obligation Bonds for the Annual Period Ending June 30, 1962.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The following sums, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated, to be undertaken by the agencies hereinafter designated, for the annual period ending June 30, 1962 out of moneys in the treasury received from general revenues, special funds, or bond funds, as designated in each of the subsections. The letter symbols used after the specific project appropriations, if any, indicate the source of financing and shall have the following meaning: (c)—general fund; (b)—general obligation bond funds; (s)—special funds; (r)—revenue bond funds; and (f)—federal funds. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance the projects herein indicated which are designated as being financed from general obligation bonds.

#### A. PROJECT NOT LOCATED IN ANY SPECIFIC COUNTY

1. State Funds to Match Federal Planning Grants.....\$ 75,000 (c)  
State funds to acquire Federal matching funds available for the planning of small communities and special areas, and for detailed planning of the state general plan. To be expended by the Department of Planning and Research.

#### B. PROJECTS LOCATED IN THE CITY AND COUNTY OF HONOLULU

##### I. AGRICULTURE

1. Dog and Cat Kennels, Honolulu..... 56,000 (c)  
Construction of about 70 new cat and dog kennels. To be expended by the Department of Accounting and General Services.

##### II. NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources unless otherwise specified.)

1. Magic Island Development, Oahu..... 88,434 (c)  
811,566 (b)  
500,000 (s)  
1,400,000

Provided, that, with a portion of the appropriation made herein, the department may employ a project manager and other necessary staff to supervise the Magic Island project. Construction of projective structure, periphery fills and dykes for portions of the peninsula indicated as Phase I of the Ala Moana Reef Plan being the Diamond Head peninsula intended for hotel and commercial use.

2. Sand Island Development, Oahu..... 29,000 (c)  
971,000 (b)  
1,000,000

Survey, plans and improvements necessary to develop an industrial area within University lands located in Sand Island. The amount of this appropriation shall be reimbursed to the general fund by the University of Hawaii from revenues derived from Sand Island.



3. Waimanalo Development, Oahu.....	2,053,000 (s)
	<u>1,115,754 (b)</u>
	3,168,754
Construction and completion of Stages I and II of the Waimanalo core plan and engineering and construction drawings for Stage III.	
4. Hawaiian Home Lands:	
Papakolea Residence Lots.....	45,000 (s)
5. Hawaiian Home Lands:	
Waimanalo, Area II, Subdivision.....	200,000 (s)
6. Makiki Round Top House Lots, Oahu.....	35,000 (s)
Lot surveys, plans, and cost of installing water pipe line and making individual water connections for sub-division of state-owned land above Makiki Nursery.	
7. Puu-o-Hulu House Lots, Waianae, Oahu.....	10,000 (s)
To survey, construct an access road and install water connections for state subdivision at Waianae.	
8. Diamond Head House Lots, Honolulu, Plans.....	100,000 (s)
9. Keaiwa Park, Oahu.....	35,000 (c)
General development of park, other than the construction of cabins, which will enlarge the recreational potential of the park.	
10. State Park Cabin Development Site, Oahu.....	15,000 (c)
Plans for cabin facilities at Peacock Flats and Waialea Beach, together with firm prices of lands to be acquired. Plans and land acquisition costs to be presented to the legislature not later than 20 days prior to the convening of the 1962 session of the legislature.	
11. Dillingham Field and/or Mokuleia Beach Park, Oahu.....	10,000 (c)
[Item vetoed, W.Q.]	
Construction of comfort station and installation of water line.	
12. Aliamanu Park, Oahu .....	100,000 (b)
As a supplement to Act 224 SLH 1959	
[Item vetoed, W.Q.]	
Appropriation for park improvements.	
13. Kilohana Falls Park, Kalihi Valley, Oahu.....	25,000 (c)
	<u>50,000 (b)</u>
	<del>75,000</del>
Land acquisition and improvements.	
[Item vetoed, W.Q.]	
14. Development of state park on former Marks Estate Property, Nuuanu, Oahu .....	58,000 (b)
[Item vetoed, W.Q.]	
Payment to highway special fund for land purchase for portions of Marks property for state parks purposes.	
15. Pupukea Forest Park, Oahu.....	50,000 (c)
	<u>50,000 (b)</u>
	<u>100,000</u>
	50,000 (c)
[Item vetoed, W.Q.]	
16. Ualakaa Park, Oahu.....	9,600 (c)
17. Liliuokalani Gardens State Park, Oahu.....	25,000 (c)
	<u>150,000 (b)</u>
	<u>175,000</u>
[Items vetoed, W.Q.]	
Restoration of Royal Swimming Hole (Waikahalulu Falls) and historic site, land acquisition of Robinson Estate Property for the purpose of developing a first-class tourist attraction.	
18. Restoration, Preservation and Identification of Historic Sites, Oahu .....	20,000 (c)
19. Pali Lookout, Oahu—Construction of parking area.....	15,000 (c)

20. Pensacola Street Storm Drain, Oahu..... 300,000 (b)  
[Item vetoed, W.Q.]  
Construction of a flood control drain box from the mauka arterial (Lunalilo Freeway) to the Ala Moana Canal. To be expended by the City and County of Honolulu.
21. Improvement of Nanaulu Drive and Nuuanu Stream for Flood Control Purposes ..... 150,000 (b)  
[Item vetoed, W.Q.]  
Clean Nuuanu Stream mauka of School Street; prevent over-flow of water into Stream Drive and Nanaulu Drive; construct whatever is necessary to prevent flood in Nuuanu area.
22. Jennie Street Flood Control, Oahu..... 330,000 (b)  
[Item vetoed, W.Q.]  
For flood control of Kalihi Stream.
23. Waiawa Stream Flood Control, Oahu..... 25,000 (b)  
[Item vetoed, W.Q.]  
To be expended by the City and County of Honolulu for flood control of Waiawa Stream.

### III. TRANSPORTATION

(To be expended by the Department of Transportation.)

1. Small Boat Launching Ramps, windward Oahu..... 55,913 (c)
2. Heeia-Kea Anchorage and Wharf, windward Oahu..... 44,434 (c)  
To repair and extend facilities at the Heeia-Kea wharf and small boat launching ramps in windward Oahu.
3. Haleiwa Beach, Park and Breakwater, Oahu..... 200,000 (b)  
[Item vetoed, W.Q.]  
To restore, improve and expand Haleiwa Beach, Park and to prevent soil and sand erosion.
4. Kaiaka Bay Marina, Oahu..... 25,000 (c)  
Feasibility study for a small boat harbor.
5. Marina, Waianae, Oahu..... 25,000 (c)  
267,913 (b)  
292,913  
[Item vetoed, W.Q.]  
Plans and construction of a new marina on the Honolulu side of Kaneilio Point, Oahu.
6. Keeki Lagoon, Oahu, Small Boat Harbor..... 232,223 (c)  
513,368 (b)  
745,591  
Construct permanent bulkhead walls in accordance with Honolulu Waterfront Plan. Construction of temporary cat-walks, moorings, and launching ramps for small boats.
7. Small boat launching ramps, other than windward Oahu..... 49,000 (c)
8. Farrington Highway, Waipio Junction to Ewa-Waianae Junction, Oahu ..... 845,000 (b)  
813,000 (s)  
1,658,000  
Construct 3 miles of 4-lane divided highway.
9. Lunalilo Freeway, Oahu ..... 1,137,664 (r)  
Right-of-way acquisition for Kaimuki section.
10. Lunalilo Freeway, Oahu ..... 3,247,048 (s)  
Right-of-way acquisition and construction of 6 and 8 lane freeway from Houghtailing to Nuuanu Stream.
11. Vineyard Boulevard, Oahu ..... 82,350 (s)  
Construction of 6-lane divided connection to Lualilo Freeway.
12. Liliha Street, Oahu ..... 122,800 (s)  
Construction of overpass over Lunalilo Freeway, and widening of road from Vineyard Boulevard to School Street.
13. Interstate Highway (Lunalilo Freeway), Oahu..... 5,919,400 (s)  
1,000,000 (b)  
6,919,400  
Construction of 6 and 8 lane freeway over an approximate 1.9 miles between Kapiolani Boulevard and Kilealea Avenue.

14. Interstate Highway, Oahu .....	231,000 (b)
Survey and plan for the section from Barber's Point to Kunia intersection.	
15. Lunalilo Freeway, Oahu .....	5,000 (r)
Plans for 6-lane freeway about 1.1 miles long from Pele Street to Keeaumoku Street.	
16. Kalanianaʻole Highway, Oahu .....	200,000 (s)
To realign and construct 3.1 miles of 4-lane paved highway from Kailua Junction to Waimanalo in windward Oahu.	
17. Kamehameha Highway, Oahu .....	161,500 (b)
	161,500 (s)
	<u>323,000</u>
Plans to realign, acquire land, and to construct 1.4 miles of 2-lane paved highway from Weed Junction #2 Haleiwa, to Haleiwa Park, Oahu.	
18. Kaena Point Road, Oahu.....	200,000 (b)
Construct 2-lane pavement 4.3 miles long from Kaena Point toward Mokuleia.	
19. Farrington Highway, Barber's Point to Piliokoe Gulch, Oahu....	140,000 (b)
Plans for pavement of 4.6 miles from Barber's Point to Piliokoe Gulch.	
20. Kamehameha Highway, Oahu .....	160,000 (c)
Installation of overhead highway lights on Kamehameha Highway between Honomau Street, Aiea and Waiawa Overpass, Pearl City.	
21. Installation of highway lights from old government road and Farrington Highway Intersection to Jade Street and Farrington Highway Intersection, Waianae, Oahu.....	24,434 (c)
Provide highway lights in the area before and beyond Waianae High School on Farrington Highway.	
22. Materials Laboratory, Honolulu .....	84,000 (s)
Expansion of existing buildings to provide more space for increased work program.	
23. Automotive Service Building, Honolulu.....	9,600 (s)
Construction of covered area of about 1,300 square feet with small office, additional gasoline pump, and lavatory to replace temporary facility.	
24. Vehicle Sheds, Oahu Base Yard.....	24,000 (s)
Construction of two covered sheds 20 x 150 feet with asphalt pavement to provide shelter for about 30 vehicles.	
IV. PUBLIC SCHOOLS AND LIBRARIES	
(To be expended by the Department of Accounting and General Services unless otherwise specified.)	
1. Kapiolani Technical School, Dual Purpose Building, Oahu.....	55,000 (c)
	792,000 (b)
	<u>847,000</u>
Construction of a multi-story building with about 32,400 square feet of classroom space for business education, retail sales, and dental and medical aides training programs, and library and general classrooms.	
2. Honolulu Technical School, Classroom Building, Oahu.....	27,500 (c)
	666,300 (b)
	<u>693,800</u>
Construction of a two-story building of approximately 26,000 square feet of space for general classrooms, science laboratories, and commercial and power sewing, drafting, and engineering courses and the purchase of equipment. Provided, that the appropriation for the Honolulu Technical School shall not be used for the transfer of the Aviation School from the Honolulu Airport.	

3. Diamond Head School, Dormitories, Additional Construction Funds .....	42,000 (c)
Supplemental funds to complete the construction of four dormitories.	
4. Aiea Branch Library, Oahu.....	100,000 (c)
Land acquisition, plans, construction, equipment and books for the Aiea Branch Library.	
5. Aina Haina Branch Library, Oahu.....	337,000 (c)
To construct and equip a one-story library at the Aina Haina Shopping Center, and to purchase books therefor.	
6. New Kaimuki Branch Library, Oahu.....	195,000 (c)
Land acquisition and plans for the New Kaimuki Branch Library.	
7. Kalihi-Palama Branch Library, Oahu.....	87,000 (c)
To construct a concrete sidewalk from the library to the entrance of Bishop Museum; and to acquire lands to serve as parking area for the Kalihi-Palama Branch Library.	
8. Kaneohe Branch Library, Kaneohe Civic Center, Kaneohe, Oahu	375,000 (c)
To construct and provide equipment therefor, including books—a supplement to Act 23, S.L.H. 1960.	
9. Branch Library in the Kukui area or the Kauluwela School area, Oahu .....	400,000 (b)
	200,000 (b)
	[Item reduced, W.Q.]
For land, plans, construction and equipment, including books for a branch library in the Kukui area or the Kauluwela School area, Oahu.	
10. Pearl City Branch Library, Oahu—Site Purchase.....	60,000 (c)
Acquisition of land as site for future Pearl City Branch Library.	
11. New Wahiawa Branch Library, Oahu.....	167,876 (c)
Land acquisition and plans for the construction of branch library in Wahiawa.	
12. Waipahu Library, renovation and furniture.....	20,000 (c)

#### V. UNIVERSITY OF HAWAII

(To be expended by the Department of Accounting and General Services unless otherwise specified.)

1. President's Residence .....	100,000 (c)
For a president's residence to be built or purchased as opportunity presents. To be expended by the University of Hawaii.	
2. Classroom Building No. 3, Manoa Campus.....	86,750 (c)
Plans for the construction of about 75,000 square feet of floor space (reinforced concrete) for classrooms, instructional laboratories and faculty offices.	
3. Equipment for Classroom Building No. 2, Manoa Campus.....	90,000 (c)
For the purchase of equipment for Classroom Building No. 2	
4. Food Service Facility, Manoa Campus.....	150,000 (c)
	892,000 (b)
	1,042,000
Plans, construction and equipment for additional cafeteria plus first phase in development of a centralized food service facility.	
5. Women's Dormitory, Manoa Campus.....	52,000 (c)
Plans for a residence hall for women to house approximately 170 women students to be operated as a unit of Frear Hall.	
6. Gilmore Hall, Manoa Campus, Renovation of Electrical Installation .....	62,000 (c)
Replacement and installation of electrical circuits, switching equipment, wiring and fixtures in Gilmore Hall.	

7. Campus Roads, Drainage, and Utilities, Manoa Campus..... 120,000 (c)  
Construction of belt road on upper campus, extension of drainage system on upper and lower campus, reconstruction of McCarthy Road to new grade, and alterations to electrical distribution system.

8. Building and Maintenance Facilities, Manoa Campus..... 26,000 (c)  
330,000 (b)  
356,000

Construction of replacement facilities on an equal-area basis for those facilities which must be replaced to follow the revised general campus development plan. These facilities will consist of carpenter shop, paint shop, electrical shop, welding shop, plumbing shop, warehouse and storage, and gas station with combustible storage.

9. Dispensary, Manoa Campus ..... 17,500 (c)  
Plans for the construction of a dispensary providing space for doctor's office, nurses' offices, office space for the director of student health, treatment room, and emergency beds for university students. This project is not intended to provide infirmary rooms for sick students.

10. Geophysics Building, Manoa Campus, Supplement to Federal Funds ..... 195,000 (c)  
To supplement federal funds received for the construction of a geophysics building. State funds are to be used for the construction of undergraduate classroom facilities in the geophysics building.

11. New Swimming Pool, Manoa Campus..... 30,000 (c)  
320,000 (b)  
350,000

Plans for new 50 meter swimming pool on the University of Hawaii Campus.

12. Faculty Housing-Waahila Apartments, Manoa Campus..... ~~100,000 (c)~~  
~~300,000 (b)~~  
~~400,000~~

[Item vetoed, W.Q.]

13. University High School Multi-Purpose Building, Oahu..... 212,000 (c)  
Plans, construction, and equipment for multi-purpose building with a new cafetorium seating 300 students and providing auditorium and band practice facilities.

## VI. PUBLIC HEALTH

(To be expended by the Department of Accounting and General Services unless otherwise specified.)

1. Waipahu Health Center, Oahu..... 100,000 (c)  
Plans, construction and equipment for a new health center of approximately 5,000 square feet with clinical facilities, office space, utility space and parking.

2. State Hospital, Oahu, Central Warehouse..... 95,000 (c)  
Plans, construction and equipment for a one-story prefabricated metal type building with storage racks and bins for total storage of hospital supplies and materials.

3. State Hospital, Oahu, Shop Building..... 15,000 (c)  
Construction of one Butler type building of about 3,000 square feet to complete new shops.

4. State Hospital, Oahu, Renovation of Ward Building..... 68,000 (c)  
Renovation of Lokai, Waipa and other wards for the purpose of making such wards more attractive and livable for patients.

5. Waimano Home, Oahu, Male Treatment Building..... 50,000 (c)  
386,000 (b)  
436,000

Plans, construction and equipment for a one-story concrete or hollow tile building to house some 96 male patients.

- |  |             |
|--|-------------|
| 6. Waimano Home, Oahu, Habilitation Cottage for Females.....   | 193,000 (b) |
| Plans, construction and equipment for a one-story hollow tile building to house some 38 female patients to be trained in the way to live in private homes.           |             |
| 7. Waimano Home, Oahu, General Storage and Maintenance Building .....  | 8,500 (c)   |
| Plans for a Butler type building of approximately 23,000 square feet to better the control of supplies and materials and to provide complete maintenance facilities. |             |
| 8. Castle Memorial Hospital, windward Oahu.....  | 250,000 (b) |
| A grant to the Castle Memorial Hospital for construction and equipping of a 72 bed hospital in windward Oahu.  |             |
| 9. Kuakini Hospital, Oahu .....  | 250,000 (c) |
| A grant to the Kuakini Hospital for plans and construction of additional buildings.  |             |

#### VII. SOCIAL SERVICES

(To be expended by the Department of Accounting and General Services.)

- |  |             |
|--|-------------|
| 1. Rehabilitation Center for Visually and Physically Handicapped, Honolulu .....   | 140,000 (c) |
| Assessment for construction of Bachelot Street to Kuakini Street, and construction of Unit B and purchase of equipment.  |             |
| 2. Kawailoa Girls' Home, Oahu, Chain Link Fence.....   | 14,300 (c)  |
| Construction of approximately 2,200 feet of 6 feet high chain link fence along Kaneohe side of Girls' Home.  |             |
| 3. Kawailoa Girls' Home, Oahu, Hookipa Cottage, Interior Remodeling .....  | 28,000 (c)  |
| Renovation and relocation of dormitories, isolation rooms, bathrooms, dispensary and offices.  |             |
| 4. Oahu Prison, Chain Link Fence.....  | 40,000 (c)  |
| Construction of approximately 2,800 feet of 16 feet high chain link fence, including electrically operated gate. To be installed outside of wall area of the prison. |             |

#### VIII. DEFENSE

(To be expended by the Department of Accounting and General Services.)

- |   |                |
|---|----------------|
| 1. Fort Ruger, Honolulu, Three-Unit Armory.....   | 10,000 (c)     |
|   | 275,000 (b)    |
|   | 282,000 (f)    |
|   | <u>567,000</u> |
| Plans, construction and equipment for a two-story armory of 28,000 square feet to house three infantry and missile headquarters units of Hawaii Army National Guard.  |                |
| 2. Fort Ruger, Oahu, Combined Field Maintenance Shop.....   | 400,000 (f)    |
| Construction of prefabricated steel and concrete hollow block building, single story, containing approximately 20,000 square feet of floor space to provide adequate facilities to house the ordnance, signal, automotive, instrument, and quartermaster repair shops and machine shops which support the activities of the Hawaii Army National Guard. |                |
| 3. Ordnance Company Armory, Oahu.....   | 20,000 (c)     |
| Installation of sewer, utilities and access necessary for the completion of the armory—to supplement Act 23, S.L.H. 1960.   |                |

#### IX. JUDICIARY

(To be expended by the Department of Accounting and General Services.)

- |   |             |
|---|-------------|
| 1. Juvenile Detention Home, Honolulu, Completion.....                               | 124,500 (c) |
| Completion of administrative offices and boys' wing of the Juvenile Detention Home. |             |
| 2. First Circuit Court Proper, Honolulu, Improved Lighting System .....             | 10,000 (c)  |
| Improvement of lighting in the office of the Chief Clerk and in the basement.       |             |

**X. GENERAL GOVERNMENT**

(To be expended by the Department of Accounting and General Services.)

- |   |               |
|---|---------------|
| 1. Liliuokalani Building, Honolulu .....  | 20,000 (c)    |
| Construction of pressure drainage system to drain rear service entrance.  |               |
| 2. Liliuokalani Building, Honolulu .....  | 61,800 (c)    |
| Renovation of basement for use as offices.  |               |
| 3. Liliuokalani Building, Honolulu.....   | 48,800 (c)    |
| Installation of air conditioning in basement offices.   |               |
| 4. Kapuaiwa Building, Oahu .....  | 178,500 (c)   |
| Alteration of existing partitions and non-bearing walls, construction of new office partitions, revision of electrical and plumbing systems, installation of new light fixtures and air conditioning. |               |
| 5. Mezzanine Floor Addition, Department of Land and Natural Resources, State Office Building.....   | 65,000 (c)    |
| Construction of mezzanine floor in the land office to add approximately 900 square feet in office space.  |               |
| 6. Land Acquisition, Honolulu Civic Center.....   | 1,000,000 (c) |

**XI. OTHERS**

(To be expended by the City and County of Honolulu, unless otherwise specified.)

- |  |                        |
|--|------------------------|
| 1. Municipal Auditorium Complex, Oahu.....   | 500,000 (c)            |
|  | <u>977,019 (b)</u>     |
|  | 1,477,019              |
| Construction of facilities in the Municipal Auditorium Complex to provide convention space now lacking in the State—a supplement to Act 23, S.L.H. 1960. |                        |
| 2. Little Theater, Oahu.....   | <del>50,000 (e)</del>  |
|  | <del>550,000 (b)</del> |
|  | <del>600,000</del>     |
|  | [Item vetoed, W.Q.]    |
| Construction of a Little Theater on land owned by the City and County of Honolulu.   |                        |
| 3. Bishop Museum, Oahu, Repair to Buildings.....   | 30,000 (c)             |
| A grant to the Bishop Museum to be expended for repairs to its buildings.  |                        |
| 4. Arizona War Memorial .....  | 50,000 (c)             |
| A grant to the Pacific War Memorial Commission for the construction of the Arizona War Memorial at Pearl Harbor, Oahu.                                   |                        |
| 5. Swimming Pool, Pearl City, Oahu.....  | <del>145,000 (b)</del> |
|  | [Item vetoed, W.Q.]    |
| Plans and construction of a swimming pool in the Pearl City Highlands Park.  |                        |

**C. PROJECTS LOCATED IN THE COUNTY OF MAUI**

**I. NATURAL RESOURCES**

(To be expended by the Department of Land and Natural Resources unless otherwise specified.)

- |  |             |
|--|-------------|
| 1. Kihei Resort Area Development, Maui.....  | 50,000 (s)  |
| Surveys, plans, grading, and other site preparation necessary to develop 25 acres of State-owned land at Kihei, Maui, for disposition for resort-hotel purposes. |             |
| 2. Hamoa Beach Lots, Maui .....  | 20,000 (s)  |
| Rehabilitate roads and furnish power lines to service an existing subdivision at Hana, Maui, of 67 houselots of approximately 15,000 square feet each.           |             |
| 3. Kihei Land Development, Maui.....   | 200,000 (s) |
| To be allocated to the Department of Land and Natural Resources for Kihei Land Development.  |             |

4. Molokai Irrigation and Water Utilization Project.....	1,000,000 (b)
Construction of transmission main, reservoirs, distribution systems and appurtenances.	
Provided, that said appropriation is not to be spent to the extent that Small Reclamation Projects Act money shall be available; provided further, that no part of this appropriation shall be spent until the Department of Hawaiian Homes Land and the Department of Land and Natural Resources shall have consummated a land exchange of Hawaiian Homes land south of the Molokai airport, classified as well suited for diversified agriculture with irrigation, for state land on Oahu, which is available for housing use; provided further, that such exchange shall be based on present assessed values of the lands in question, but that no less than 600 acres of reasonably contiguous agricultural land shall be exchanged for no less than 100 acres of housing land.	
5. Kihei Water System, Maui.....	600,000 (b)
Completion of water transmission line from Maalaea Bay to Makena.	
To be expended by the Maui County Water Board. If there is no water board, then by the Department of Accounting and General Services.	
6. Water Studies, Molokai and Lahaina.....	60,522 (c)
	9,478 (b)
	<u>70,000</u>
7. Feasibility, Study and Preliminary Plans for the Lower Kula Transmission and/or Trunk Lines and/or Storage Facilities, Maui .....	91,000 (c)
	52,000 (b)
	<u>143,000</u>
To be allocated to the Maui County Water Board. If there is no water board, then to the Department of Accounting and General Services for feasibility, study and preliminary plans for the lower Kula transmission and/or trunk lines and/or storage facilities.	
8. Kula, Maui (Transmission Line Omopio to Alae Waiakoa or further, if funds permit).....	200,000 (c)
	40,000 (b)
	<u>240,000</u>
To be allocated to the Maui County Water Board. If there is no water board, then to the Department of Accounting and General Services for the used stated herein.	
9. Kanaha Pond Development Plans, Kahului (To be expended by the Comptroller).....	10,000 (c)
10. Restoration, Preservation and Identification of Historic Sites, Maui .....	28,000 (c)
Provided that \$14,000 shall be allocated to the Lahaina Historic Restoration Project.	
II. TRANSPORTATION	
(To be expended by the Department of Transportation.)	
1. Lanai Airport .....	35,000 (b)
To be allocated to the Department of Transportation for the Lanai Airport.	
2. Lanai Small Boat Harbor.....	150,000 (c)
To be allocated to the Department of Transportation for the Lanai Small Boat Harbor.	
3. Hana Belt Road, Maui.....	572,900 (s)
	293,000 (f)
	<u>865,900</u>
Construction of Bridge and 2-lane pavement over Kakipi Gulch.	



4. Hana Belt Road (Kailua to Honomanu), Maui.....	279,000 (b)
To be allocated to the Department of Transportation for Hana Belt Road (Kailua to Honomanu)	
5. Farrington Avenue, Molokai-Realign, widen, and pave 2.5 miles of existing road from Kapeelua Avenue to FAP route 47 east of Kualapuu.....	72,000 (s) 197,000 (b) <u>269,000</u>
6. Hana Belt Road—Construct 2.5 miles of 2-lane pavement from Waipio to Kailua .....	82,050 (s)
7. Iao Valley Road.....	100,000 (c)
(To be expended by the County of Maui)	
8. Tidal Wave Escape Road, Waiehu.....	10,000 (c)
(To be expended by the County of Maui)	
9. Hana Small Boat Study, Maui.....	10,000 (c)
To be allocated to the Department of Transportation for the the Hana Small Boat Study.	
10. Plans and construction for a storage shed at Pier 2, Kahului Harbor, Maui for temporary storage of farm produce.....	49,882 (b)
11. Construction of concrete sidewalk on Kaahumanu Avenue, Maui	<del>10,000 (e)</del>
	[Item vetoed, W.Q.]

### III. PUBLIC SCHOOLS AND LIBRARIES

1. Baldwin High School Agriculture Building, Maui.....	<del>125,000 (b)</del>
To be allocated to the Department of Accounting and General Services for the Baldwin High School Agriculture Building.	[Item vetoed, W.Q.]
2. Lahainaluna School, Maui, Pipeline and Reservoir.....	65,000 (c)
To complete the final phase of a water supply project with construction of 100,000 gallon reservoir for storage and fire protection, and for construction of parking area on campus. To be expended by the Department of Accounting and General Services.	
3. Kahului Library, Maui .....	300,000 (c)
To be allocated to the Department of Accounting and General Services for the construction of the new Kahului Library.	

### IV. PUBLIC HEALTH

(To be expended by the Department of Accounting and General Services unless otherwise specified.)

1. Kalaupapa Settlement, Molokai, Patient's Cottages.....	115,000 (c)
Replacement of substandard housing for patients with modest frame cottages to house married patient couples.	
2. Kalaupapa Settlement, Molokai Electrical Distribution System..	42,000 (h)
Change present 3-phase electrical distribution system to a 2400-4160Y system, replacing approximately 40 poles due to obsolescence and termite damages and 8 miles of second- ary wires together with all necessary apparatus.	
3. Molokai Hospital .....	250,000 (c)
To be allocated to the Department of Accounting and General Services, for the construction of Molokai General Hospital with the approval of the Molokai Hospital Management Committee.	
4. Central Maui Memorial Hospital.....	<del>75,000 (e)</del>
To be allocated to the Department of Accounting and General Services for the use of Central Maui Memorial Hospital with the approval of the Central Maui Memorial Hospital Managing Committee.	[Item vetoed, W.Q.]

V. JUDICIARY

- |   |            |
|---|------------|
| 1. Second Circuit Court .....   | 92,000 (c) |
| To rearrange the present courtroom, construct a basement and re-roof the existing structure. To be allocated by the Department of Accounting and General Services to be expended by the authority of the Judge of the Second Circuit Court. To supplement Act 23, S.L.H. 1960 for the Second Circuit Court. |            |
| 2. Juvenile Detention Home, Maui, Completion.....   | 5,000 (c)  |
| For the paving of access road and parking area, completion of chain link fence, and water line connection to the county water system. To be expended by the Department of Accounting and General Services.  |            |

VI. GENERAL GOVERNMENT

- |  |                       |
|--|-----------------------|
| 1. Department of Transportation.....   | 1,000,000 (b)         |
| To be expended within the State in conformity with the conditions specified by the Federal Aviation Agency for the return of the Puunene Airport lands to the State in their letter to the Hawaii Aeronautics Commission dated January 27, 1961. |                       |
| 2. Wailuku Off-Street Parking, Maui.....   | <del>43,000 (b)</del> |
|  | [Item vetoed, W.Q.]   |
| To be allocated to the Department of Accounting and General Services for Wailuku Off-Street Parking.   |                       |

VII. OTHERS

- |  |           |
|--|-----------|
| Erection of Memorial Plaque, Hana..... | 1,000 (c) |
|--|-----------|

D. PROJECTS LOCATED IN THE COUNTY OF HAWAII

I. AGRICULTURE

(To be expended by the Department of Accounting and General Services unless otherwise specified.)

- |   |            |
|---|------------|
| 1. State Nursery, Kamuela, Waimea, Hawaii.....  | 75,000 (c) |
| Development of plans and construction and equipping of a consolidated tree nursery to propagate tree seedlings for tree planting program. |            |
| 2. Department of Agriculture and Conservation Building, Hilo, Hawaii .....  | 35,000 (c) |
| Construction of a prefabricated building to house offices, inspection laboratories, fumigation vaults, warehouse and storage rooms.       |            |

II. NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources unless otherwise specified.)

- |  |                |
|--|----------------|
| 1. Panaewa Farm and House Lots Subdivision, Hawaii.....  | 371,000 (b)    |
|  | 100,000 (s)    |
|  | <u>471,000</u> |
| Surveys, plans, roads and water distribution system necessary to subdivide state-owned lands in Panaewa, Hilo, into not less than 28 farm lots of 10 acres each and not less than 25 house lots of 2.75 acres each, including pro-rotta share of water source development and main transmission development. |                |
| 2. Waiakea Houselots, Hawaii .....   | 100,000 (s)    |
| Surveys, plans, and cost of roads and water, and furnishing electric power, to subdivide 40 acres of State-owned land in Waiakea, Hilo, Hawaii, into about 96 lots of approximately 15,000 square feet each.   |                |
| 3. Plans and Studies, Development of State Owned Industrial Land in Hilo .....   | 25,000 (s)     |
| Plans, survey and economic studies for development of State lands in the Hilo area for industrial and commercial purposes.   |                |

- |   |                     |
|---|---------------------|
| 4. Kona Water Development, Hawaii.....  | 1,249,100 (b)       |
| Preparation of plans, development of water source, construction of major transmission lines, pumps, reservoirs, and appurtenances from South to North Kona.   |                     |
| 5. Pahoa Water Development, Hawaii.....   | 430,000 (b)         |
|   | <u>20,000 (c)</u>   |
|   | 450,000             |
| Water source development, installation of main transmission lines, storage facilities, and appurtenances. Provided, that any unrequired balance of this appropriation shall be transferred to the Mountain View Water Development Project, Hawaii.  |                     |
| 6. Waiakea-Uka Water Development, Hawaii.....   | 215,000 (b)         |
| Construction of main transmission lines, storage facilities and appurtenances.  |                     |
| 7. Kawaihae Water System, Hawaii.....   | 131,920 (c)         |
|   | <u>153,080 (b)</u>  |
|   | 285,000             |
| Development of water source, construction of transmission lines, storage facilities and appurtenances for Kawaihae-Puako area.  |                     |
| 8. Mountain View Water Development, Hawaii.....   | 60,000 (c)          |
|   | <u>40,000 (b)</u>   |
|   | 100,000             |
|   | [Item vetoed, W.Q.] |
| Development of water source, main transmission lines, storage facilities and appurtenances for Mountain View area. To be expended by the County of Hawaii, Board of Water Supply, subject to the approval of plans by the Division of Water and Land Development, Department of Land and Natural Resources.   |                     |
| 9. Water Development, North Kohala, Hawaii.....   | 60,000 (c)          |
| To be expended by the County of Hawaii, Board of Water Supply, subject to the completion of the project, subject to approval of plans by the Division of Water and Land Development, Department of Land and Natural Resources.  |                     |
| 10. Hamakua Water Development, Hawaii.....  | 200,000 (c)         |
|   | <u>165,000 (b)</u>  |
|   | 365,000             |
|   | [Item vetoed, W.Q.] |
| Development of water source, main transmission lines and appurtenances for the Ahulua-Hamakua areas. To be expended by the County of Hawaii, Board of Water Supply, subject to approval of plans by the Division of Water and Land Development, Department of Land and Natural Resources.   |                     |
| 11. Waiakea-Panaewa Water Development, Hawaii.....  | 225,000 (b)         |
| Development of water source and installation of main transmission lines and appurtenances for the development of the Panaewa House and Farm Lots and the serving of water to the University of Hawaii Experiment Station at Panaewa. To be expended by the County of Hawaii, Board of Water Supply, subject to the approval of plans by the Division of Water and Land Development, Department of Land and Natural Resources. |                     |
| 12. Pohakuloa Park, Hawaii .....  | 50,000 (c)          |
| Construction of cabins and general development of Pohakuloa Park, including improvements for restrooms, bridle paths, hunting area, water, etc.   |                     |
| 13. Restoration, Preservation and Identification of Historic Sites, Hawaii .....  | 10,000 (c)          |
| To be used for historic sites throughout the island of Hawaii.  |                     |

14. State Parks, Hawaii County.....	40,000 (c)
To improve and maintain as many of the following State parks as funds permit: Lava Tree State Park, McKenzie State Park, Wailoa River State Park, Akaka Falls and Manuka State Park.	
15. Waipio Flood Control Project, Hawaii.....	<del>10,000 (c)</del>
[Item vetoed, W.Q.]	
To be expended by the County of Hawaii for the purpose of flood control measures in Waipio Valley.	
16. Wailoa Flood Control Project, Hawaii.....	80,000 (c)
	48,000 (b)
	<u>128,000</u>
To be expended by the County of Hawaii for the completion of the Wailoa Flood Control project—a supplement to a prior appropriation.	

### III. TRANSPORTATION

(To be expended by the Department of Transportation.)

1. General Lyman Field, Hilo, Hawaii.....	300,000 (b)
Extension of runway 8-26 to accommodate jet service.	
2. Drydock Facilities, Hilo, Hawaii.....	50,000 (c)
Construction of drydock in the vicinity of Hilo, Hawaii, and purchase of necessary equipment. The drydock facilities shall be leased out to private enterprise on a basis of competitive bids as provided for in Act 245, S.L.H. 1959, as amended.	
3. Akaka Falls Road, Hawaii.....	30,000 (c)
To survey, plan, improve, pave and resurface existing Akaka Falls Road.	
4. Puainako Road .....	50,000 (c)
For survey, plans and land acquisition and construction along new Waiakea School site.	
5. Makapala-Niulii-Pololu Road, Hawaii .....	90,000 (c)
To survey, plan, grade, pave and resurface existing road (to continue improvement from 1960 appropriated project).	
6. Chain of Craters Road, Hawaii—Kaimu to Hawaii National Park Boundary .....	17,000 (s)
To survey and plan for construction of 4.2 miles of 2-lane pavement from Kaimu to Hawaii National Park.	
7. Honokahau, Kona, Destination Area Complex Development, Hawaii .....	250,000 (c)
Preparation of preliminary plans for the development of a tourist destination area complex in the vicinity of Honokahau, Kona. Such plans shall provide for a new Kona airport, a small boat harbor, the necessary roads and water transmission lines and the highest and best use of public lands in and around the development complex. The Department of Transportation shall receive the assistance and advice of the Department of Land and Natural Resources with regard to plans for public lands and plans for water transmission lines.	
8. Kawaihae-Puako Road, Hawaii.....	300,000 (b)
Land acquisition and construction of approximately 8,000 feet or 1.5 mile pavement and approximately 1 mile of 12 feet dirt (gravel, cinder) road.	
9. Kawaihae-Mahukona Road, Hawaii.....	80,000 (b)
New coastal highway—for survey, plans, land acquisition for 12.4 miles of 2-lane road from Kawaihae to Mahukona.	
10. Wailoa River, Hawaii, Enlargement of Docking Facilities, Plans .....	5,000 (c)
Construction plans to enlarge docking facilities on the Hamakua side of the Wailoa River, Fisherman's Wharf—northeast of Kamehameha Avenue.	

11. Olaa-Pahoa-Road Junction, Hawaii .....	100,000 (c)
For survey, plans, land acquisition and construction of 2-lane pavement from new Volcano Road in Olaa, past Olaa town toward Pahoa. (Olaa to Federal-aid project S-231(1) including connection to new Volcano Road in Olaa.)	
12. Hawaii Belt Road—Keauhou to Kainaliu, Hawaii.....	60,000 (c)
	226,000 (b)
	92,500 (s)
	30,960 (r)
	<u>409,460</u>

For survey, plans, land acquisition, and construction of 2-lane pavement from Keauhou toward Kainaliu.

13. Honokaa-Waipio Road, Hawaii .....	350,000 (b)
	176,000 (s)
	<u>526,000</u>

For survey, plans, land acquisition to construct 2-lane pavement from Honokaa toward Waipio.

#### IV. PUBLIC SCHOOLS AND LIBRARIES

1. Waiakea-Kai School, Hawaii .....	460,000 (b)
Plans, construction and equipment for a new Waiakea-Kai School. Relocation of the school is made necessary as it is now situated in a tidal wave danger zone. To be expended by the County of Hawaii.	
2. Pahala Branch Library Building, Hawaii.....	91,000 (b)
Construction of a one-story building with six rooms, including adult and children's rooms, work and storage rooms and two lavatories; and purchase of equipment and books. To be expended by the Department of Accounting and General Services.	

#### V. UNIVERSITY OF HAWAII

(To be expended by the Department of Accounting and General Services.)

1. Hilo Campus, Hawaii .....	300,000 (c)
Preparation of plans and construction of a dormitory to house students attending the University of Hawaii, Hilo Campus.	
2. Maintenance Workshop and Storage, Hilo Campus, Hawaii.....	9,600 (c)
Construction of frame structure to be used as workshop and storage area.	

#### VI. PUBLIC HEALTH

1. Waiakea Health Center, Hawaii, Completion.....	11,770 (c)
Paving parking and driveway and erecting 8 feet cyclone fence. This appropriation will complete the total project. To be expended by the Department of Accounting and General Services.	

#### VII. DEFENSE

(To be expended by the Department of Accounting and General Services unless otherwise specified.)

1. Kealakekua Armory, Hawaii, Paving and Security Fencing.....	10,000 (c)
Construction of approximately 8,560 square feet of asphaltic concrete pavement and 1,010 lineal feet of 6 feet high chain link security fencing at the new Kealakekua Armory.	
2. Hilo Bay Protective Barrier, Hawaii.....	300,000 (b)
To be made available upon the appropriation of \$1,000,000 by federal public law for this project, or if the federal appropriation is less than \$1,000,000, not more than 30 per cent of the total appropriation.	
3. Protection of the City of Hilo from Lava Flows, Hawaii.....	26,400 (c)
To be expended for bulldozing a survey line, an access road and a photogrammetric survey beginning from the Wailuku River in a generally southeasterly direction to a point about 1½ miles east of the Volcano Road at Panaewa.	

4. Protection of the City of Hilo against Tsunami, Hawaii..... 20,000 (c)  
The Department of Planning and Research shall make this appropriation available to the County of Hawaii, upon request by the county, for a study relating to the protection of the city of Hilo against tsunamis. The county shall keep the Department of Planning and Research informed of the progress and results of the study.

VIII. GENERAL GOVERNMENT

1. Kona, Hawaii, State Office Building, Land Acquisition..... 11,376 (c)  
To supplement prior appropriation for the acquisition of land. Such land to be used as site for a State Office building in Kona. To be expended by the Department of Accounting and General Services.

E. PROJECTS LOCATED IN THE COUNTY OF KAUAI

I. AGRICULTURE

- Forest Development Roads and Trails in various Forest Reserve Areas on Kauai ..... 15,000 (c)

II. NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources unless otherwise specified.)

1. Kapaa Swamp Development, Kauai..... 75,000 (b)  
Filling, construction of roads, water and utilities to complete development for houselots and industrial sites.
2. Wailua Resort Development, Kauai..... 100,000 (s)  
Partial repayment from proceeds of sales of public lands on Kauai of advances from the Land Development Revolving Fund for the development of State lands for a resort area adjoining Lydgate Park, Kauai.
3. Waimea Heights Houselots, Kauai..... 19,998 (c)  
155,000 (b)  

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174,998  
Surveys, plans and construction of improvements, including roads and water lines, to open the first increment of houselots on State-owned lands at Waimea Heights, Kauai.
4. Wailua Houselots Development, Kauai..... 45,000 (s)  
Surveys, plans and construction of improvement, including roads and water lines, to open approximately 45 lots on State land at Wailua, including 10 lots in the present mango orchard.
5. Waimea-Kekaha Water System, Kauai..... 182,000 (b)  
Development of water source, construction of transmission lines, storage facilities, and appurtenances; including water facilities necessary to serve the State's Waimea Heights Houselots Subdivision.
6. Koloa Water System, Poipu, Kukuiula, Koloa, Lawai, District of Koloa, Kauai ..... 65,000 (b)  
Development of water sources, construction of transmission lines, storage facilities and appurtenances.
7. Hanalei Water System, District of Hanalei, Kauai..... 182,000 (b)  
Development of water source, construction of transmission lines, storage facilities and appurtenances.
8. Kokee Park, Improvements, Kauai..... 60,000 (c)  
Construction of cabins and general development of the State park at Kokee, Kauai, including improvements and additions to rest rooms, etc., to encourage increased camping and visitor use.
9. Kokee Park, Kauai, Domestic Water System..... 10,000 (c)  
Construction of transmission lines, storage facilities and appurtenances.

10. Wailua-Kapaa Water System.....	103,000 (b)
Pipeline from Nonou tank to tie into 12" main completed by Department of Land and Natural Resources.	
11. Wailua River and Lydgate Park, Kauai.....	150,000 (b)
General development, Wailua River, including dredging of area for boat landing facilities, picnic and park areas, roads, overlooks and general landscaping; general development of Lydgate Park, including access, parking, picnic areas, landscaping, restrooms and historic site restoration.	
12. Na Pali Coast Park, Kauai.....	24,790 (b)
Providing camping facilities and boat landing areas, including removal of coral head obstructions.	
13. Hanapepe Irrigation Ditch, Kauai.....	45,000 (c)
Construction of the last phase of the Hanapepe irrigation ditch (concrete lining). To be expended by the County of Kauai.	
14. Waipouli Canals, Kauai .....	104,000 (c)
Evacuate additional length of canals, construct bridge at Kauai Belt Road, flume truss over canal, and miscellaneous structures to complete drainage project. To be expended by the Department of Accounting and General Services.	
15. Hanalei Flood Control, Kauai.....	106,750 (c)
	43,250 (b)
	<u>150,000</u>
Dredging and widening, clearing of various streams or rivers.	
16. Hanapepe Flood Control Project, Kauai.....	150,000 (c)
To complete Hanapepe flood control project. To be expended by the County of Kauai.	
17. Wailua Golf Course Clubhouse, Kauai.....	100,000 (c)
	100,000 (b)
	<u>200,000</u>
Preparation of detailed plans and construction of Wailua Golf Course Clubhouse and related improvements. To be expended by the County of Kauai.	

### III. TRANSPORTATION

(To be expended by the Department of Transportation.)

1. Port Allen Small Boat Harbor, Kauai.....	200,000 (c)
	100,000 (b)
	<u>300,000</u>
Additional dredging, mooring facilities, bulkhead, paving, toilets, and utilities, etc.	
2. Kauai Belt Road, Kauai.....	570,000 (b)
	450,000 (s)
	<u>1,020,000</u>
Construct 3.6 miles of 2-lane pavement from Pilaa to Kilauea.	
3. Ahukini Road, Kauai .....	128,000 (b)
	234,000 (s)
	<u>362,000</u>
Construct 1.5 miles of 2-lane pavement from Belt Road to Lihue airport.	
4. Kauai State Base Yard.....	75,000 (s)
Relocate temporary base yard to permanent quarters on approximately 2.5 acres of land in the Lihue area.	

### IV. PUBLIC SCHOOLS AND LIBRARIES

1. Waimea High School Lot Purchase, Kauai.....	6,000 (c)
	[Item vetoed, W.Q.]
Purchase of lot adjacent to Waimea High School for addition to school plant. To be expended by the Department of Land and Natural Resources.	

2. Kapaa Branch Library, Kauai..... 50,000 (c)  
Construction of a 1,200 square foot audio visual room which could also be used for public and court meetings; plans and equipment. To be expended by the Department of Accounting and General Services.

#### V. PUBLIC HEALTH

1. Samuel Mahelona Memorial Hospital Kauai, Paved Walkway.. 600 (c)  
Paving 2,000 feet of walkway from employees' dormitories to main hospital building. To be expended by Samuel Mahelona Memorial Hospital.

#### VI. JUDICIARY

1. Juvenile Detention Facilities, Kauai..... 10,000 (c)  
To construct or reconstruct juvenile detention facilities. To be expended by the Department of Accounting and General Services.

SECTION 2. In addition to the amounts appropriated for highways in Section 1, the Department of Transportation is hereby authorized to expend such amounts of highway special funds and highway revenue bond funds presently available for expenditure by said department as may be required to complete the following projects:

	PROJECT	AMOUNT
Oahu		
	Aiea Interchange .....	\$1,018,345 (s)
	Kamehameha Highway Widening, Pearl City.....	465,000 (s)
	Moanalua Road, Fort Shafter, landscaping.....	36,750 (s)
	Pali Highway, landscaping.....	44,000 (s)
	Lunalilo Freeway—Kalihi Street, paving.....	347,870 (s)
	Nimitz Highway, Richards—Middle Street Interconnected Signal System .....	300,000 (s)
	Traffic Signals, Kalaniana'ole and Ainakoa; Hickam Gate, Moanalua and Puuloa Road, and Tripler Hospital entrance.....	61,000 (s)
Hawaii		
	Honokaa to Mud Lane.....	1,125,060 (r)
		615,300 (s)
	Keokea—City of Refuge.....	114,190 (s)
Maui		
	Lower Kula Road.....	2,249,560 (r)
Kauai		
	Kalihiwai .....	908,901 (r)
		878,901 (s)
Papaa-Pilaa		1,044,000 (r)

In case the amounts appropriated in Section 1 for any Federal-aid highway in a county are found to be insufficient to meet the fiscal year fund requirements therefor, the Comptroller with the approval of the Governor, upon recommendation of the Director of the Department of Transportation and the Director of the Department of Budget and Review, may supplement said appropriations with such amounts from the highway revenue bond or special funds that may be available or become available during the 1961-1962 fiscal year in excess of the total amounts appropriated from said funds in Section 1; from savings in the administration and operations or maintenance programs of the Division of Highways; or from unrequired amounts of appropriations for other highways in said county.

SECTION 3. In addition to the amounts appropriated for the Department of Transportation in Sections 1 and 2, the Department of Transportation



is hereby authorized to expend such amounts of the airport and harbor special funds as may be required to complete the following projects:

PROJECT	AMOUNT
Airports Special Funds	
Repave access road and auto parking area, Kalaupapa Airfield.....	\$ 10,000 (s)
Reconstruct water system, Hana Airport.....	20,000 (s)
Harbor Special Funds	
Modernization of Piers 8, 9, 10 and 11, Honolulu Harbor, Oahu. Provided, that this authorization shall be contingent upon the enactment of S. B. No. 896* into law.....	750,000 (s)

\* See Act 127.

SECTION 4. In addition to the amounts appropriated for the University of Hawaii in Section 1, the University of Hawaii is hereby authorized to expend such amounts of the special funds and revenue bond funds as may be required to complete the following projects:

PROJECT	AMOUNT
Plans and specifications for central food service facilities and first snack bar .....	\$ 72,000 (s)
Plans for second snack bar.....	13,000 (s)
Johnson Hall B .....	437,000 (r)
Faculty Housing (Waahila Apartments).....	640,000 (r)
International Gateway House Dormitory.....	444,000 (r)
Equipment for food service facilities in International Gateway House Dormitory .....	85,000 (s)

SECTION 5. The Comptroller, as Director of the Department of Accounting and General Services, is authorized to delegate to the departments the planning and construction of projects under Section 1 when it is determined by him that it is more advantageous to do so.

SECTION 6. The appropriations and authorizations in Sections 1, 2, 3 and 4 include land purchase, plans, improvements to land, construction and necessary equipment.

SECTION 7. All general obligation bonds issued for any federal aid highway project or land development project shall have the principal and interest reimbursed from the Highway Special Fund and the Land Revolving Fund, respectively.

SECTION 8. The Board of Land and Natural Resources shall deposit into a trust fund all proceeds derived by way of rentals, water licenses and other licenses and sales of wood, rock and sand from lands granted to the State by said section 5(b) and lands retained by the United States under sections 5(c) and 5(d) and later conveyed to the State under section 5(e). Said proceeds for the period July 1, 1961 to June 30, 1962 shall be appropriated and reimbursed to the general fund for the making of public improvements. Thereafter, said proceeds shall be appropriated by the laws of the State consistent with the purposes enumerated in said section 5(f).

SECTION 9. The Governor, upon recommendation of the Director of State Planning and the Director of the Department of Budget and Review, shall determine when the authorized projects shall be initiated taking into consideration the factors of public need, general financial condition of the state general fund and bond fund, and the general economic conditions. The Governor shall have authority to defer projects for reconsideration by the ensuing

legislature whenever it is determined (1) that the amount appropriated is insufficient to accomplish the purpose for which the appropriation is made, and (2) that the fiscal condition does not warrant expenditure of the appropriated funds. Such deferment shall be reported to the next legislature at least 20 days prior to its convening and shall be accompanied with the reason or reasons therefor.

SECTION 10. In case the amount specified in any item in Section 1 shall not be wholly required to complete the work of such item or after it is definitely found by the Comptroller that not more than a specified amount will be required to complete said work, such unrequired amounts may be expended for any other item in the same county in Section 1 with the approval of the Governor, upon recommendation of the Director of State Planning and the Director of the Department of Budget and Review; provided, that the provisions of Section 2 shall be applicable to all highway projects in Sections 1 and 2. Transfers or anticipated lapsing of funds under Sections 1, 2, 3 or 4 shall be reported to the next legislature at least 20 days prior to its convening and shall be accompanied with the reason or reasons therefor.

SECTION 11. The purchase of land and the construction of buildings shall be subject to the approval of the Governor upon recommendation of the Director of State Planning as to what lands should be utilized or purchased, and as to type, size, arrangement, use and exterior architectural design of the authorized structure.

SECTION 12. In the event that no funds are allotted by the Governor for any project in Sections 1, 2, 3 or 4 during the annual period ending June 30, 1962, authorizations and appropriations for such projects shall lapse as of June 30, 1962. Unallotted balances of the appropriations shall likewise lapse as of June 30, 1962.

SECTION 13. Where the Governor or any agency of any government unit is able to secure federal funds made available under any Act of Congress of the United States to be expended in connection with or for the planning and/or construction of any of the projects or works authorized by this Act, the Governor or agency shall have the power to enter into such undertaking with the proper offices or agencies of the federal government. Such undertakings shall be reported to the next legislature not later than 20 days prior to its convening.

SECTION 14. If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of this Act and each and every other provision thereof shall not be affected hereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 15. This Act shall take effect on July 1, 1961.

(Approved July 13, 1961.) **S.B. 1.**



**PROPOSED AMENDMENT TO THE CONSTITUTION\***  
**H.B. 122**

A Bill for an Act to Amend Section 1, Article XVI, of the Constitution of the State of Hawaii to Change the Areas Included in the Ninth and Tenth Representative Districts.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Paragraph 10 of Section 1, Article XVI, of the Constitution of the State of Hawaii is hereby amended to read as follows:

"Ninth representative district: that portion of the island of Oahu, for convenience herein referred to as Waialua and Wahiawa and a portion of Ewa known as Kunia and Waipio, more particularly described as follows:

'Beginning at the seashore on the boundary between the Ahupuaas of Waimea and Pupukea and following along the North boundary of the Ahupuaa of Waimea to Puu Kainapuaa on the Koolau Range at the junction of the Ahupuaas of Laie, Waimea and Kawailoa, thence southeasterly along the top of the Koolau Range, passing over Puu Pauao and Puu Kaaumakua to the head of Kipapa Gulch, thence down along Kipapa Gulch in all its turnings and windings to Waiahole Ditch, thence southwesterly along Waiahole Ditch in all its turnings and windings to Reservoir No. 31 of the Oahu Sugar Company, thence following a direct line to Puu Palikea on the Waianae Mountain Range, thence northwesterly following along the top of Waianae Mountain Range, passing over Puu Kaua, Puu Kanehoa, Puu Hapapa, Puu Kumakalii, Puu Kalena, Puu Kaala to Puu Pueo, thence westerly along the boundary between the Ahupuaas of Kaena and Keawaula to the seashore at Kaena Point, thence easterly along the seashore to the point of beginning.' two representatives;"

SECTION 2. Paragraph 11 of Section 1, Article XVI of the Constitution of the State of Hawaii is hereby amended to read as follows:

"Tenth representative district: that portion of the island of Oahu, for convenience herein referred to as Ewa, (excluding Kunia and Waipio) and Waianae, more particularly described as follows:

'Beginning at the seashore at Kaena Point, on the boundary between the Ahupuaas of Kaena and Keawaula, and following along said boundary to Puu Pueo on the Waianae Mountain Range, thence southeasterly along the top of the Waianae Mountain Range, passing over Puu Kaala, Puu Kalena, Puu Kumakalii, Puu Hapapa, Puu Kanehoa, Puu Kaua to Puu Palikea, thence following a direct line to Reservoir No. 31 of the Oahu Sugar Company, thence northeasterly along Waiahole Ditch in all its turnings and windings to Kipapa Gulch, thence up along Kipapa Gulch in all its turnings and windings to the top of the Koolau Range, thence southeasterly along the top of the Koolau Range to the boundary between the Ahupuaas of Halawa and Moanalua, thence southwesterly along the boundary between the Ahupuaas of Halawa and Moanalua to the seashore, thence westerly along the seashore to the point of beginning.' four representatives;"

SECTION 3. This act shall become effective upon adoption by a majority vote of each house of this legislature on final reading of the foregoing amendments to the Constitution of the State of Hawaii, and upon ratification upon a separate ballot thereof by the electorate as provided for in Section 3, Article XV of the Constitution of the State of Hawaii.

\* The proposed amendment was adopted on final reading by a majority vote of each house of the Legislature at the Regular Session of 1961. A similar proposed amendment proposed by H.B. 284 was adopted on final reading by a majority vote of each house of the Legislature at the Regular Session of 1960.

**TABLE SHOWING EFFECT  
OF ACTS**



**GENERAL INDEX**

**TABLES SHOWING EFFECT OF ACTS  
FIRST LEGISLATURE, REGULAR SESSION OF 1961  
State of Hawaii**

Key:

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R — Repealed  
N — New Section

— Section numbers to be inserted  
by Revisor of Statutes in the  
Cumulative Supplement to the  
Revised Laws of Hawaii 1955

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## B. SESSION LAWS OF HAWAII AFFECTED

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